



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



In the matter of:)	
)	
REDACTED)	ISCR Case No. 17-03814
)	
Applicant for Security Clearance)	

Appearances

For Government: Nicholas T. Temple, Esq., Department Counsel
For Applicant: Michelle Daugherty, Esq.

11/01/2018

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant and his spouse did not timely file their federal income tax returns for tax years 2012 through 2016, or their state income tax returns for tax years 2012 and 2014 through 2016. Applicant and his in-laws had some difficult health issues, but they do not fully mitigate Applicant’s inattention to his tax-filing obligations for the past several years. Clearance is denied.

Statement of the Case

On December 8, 2017, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F, financial considerations. The SOR explained why the DOD CAF was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative*

Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position (AG) effective within the DOD on June 8, 2017.

Applicant responded to the SOR on January 13, 2018, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 18, 2018, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On April 23, 2018, I scheduled a hearing for May 15, 2018.

On May 9, 2018, Applicant's counsel entered her appearance. On May 11, 2018, she requested a continuance, and Department Counsel had no objection. On May 14, 2018, I cancelled the hearing. On August 6, 2018, I rescheduled the hearing for September 19, 2018.

At the hearing, five Government exhibits (GEs 1-5) were admitted. A February 8, 2018 letter forwarding the proposed GEs to Applicant was marked as a hearing exhibit (HE 1) for the record but not admitted in evidence. Ten Applicant exhibits (AEs A-J) were admitted in evidence. Applicant and his spouse testified, as reflected in a transcript (Tr.) received on October 1, 2018.

Findings of Fact

The SOR alleges under Guideline F that Applicant failed to file his federal (SOR ¶ 1.a) and state (SOR ¶ 1.b) income tax returns for tax years 2012 through 2016. Applicant denied the allegations and indicated that there were extenuating circumstances. After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is 53 years old and a computer network administrator. He has an Associate Degree in applied electronics technology awarded in May 1986. (GE 1; AEs A, I.) He has worked for a succession of defense contractors at the same military installation from August 1992 to October 2012 and from June 2014 to present. He was granted a secret clearance in 1994 that was renewed in 2007. (GE 1; AE I; Tr. 22-23, 26.)

Applicant and his spouse married in 2002. (GE 1.) She took responsibility for paying the bills and completing and filing their income tax returns from the start of their marriage. Their joint income tax returns were filed on time through tax year 2011, and they received refunds. (Tr. 73-74.) Applicant's spouse worked full time for a communications company for almost 20 years. In August 2007, she acquired her real estate license. (Tr. 74.)

Applicant was unemployed from October 2012 until June 2014 for medical reasons. He had major surgery in the fall of 2012 and, in June 2013, he developed serious medical complications that resulted in him being placed in a medically-induced coma for 52 days. He had subsequent medical setbacks. (Tr. 75-81.) During his lengthy unemployment, Applicant's spouse had a power-of-attorney to handle their finances. She had to reduce her work hours as a realtor to be with him when he was hospitalized, and then care for him when he was home. Applicant had some unemployment compensation and disability

income, but he also liquidated a 401(k) of approximately \$152,000 in 2013, which paid for COBRA medical insurance coverage and their mortgage when he was out of work. (Tr. 29-31, 78-83.) Applicant's spouse did not file federal or state income tax returns for tax year 2012, and their federal return for tax year 2013.¹ (GEs 1-2; AEs C-D, Tr. 55-57.) Their tax returns were complicated because of several withdrawals from retirement accounts and her business expenses as a self-employed realtor. (Tr. 56.)

Applicant returned to work in June 2014 for a defense contractor at a nearby military installation located in a state that collects taxes on non-residents that earn income in the state. (Tr. 32, 66-67.) Applicant assumed that federal and non-resident state taxes were withheld from his pay. Apparently only recently, he learned that non-resident state income taxes had not been withheld from his pay, and he rectified his withholding issue.² (Tr. 59.)

On March 16, 2015, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86). In response to an inquiry concerning whether he had failed to file or pay and Federal, state, or other taxes by law or ordinance in the last seven years, Applicant indicated that he had not filed federal or state income tax returns for tax years 2012 and 2013. He explained that he had been hospitalized for an extended time and was not able to file his tax returns for those tax years. During tax year 2013, he prematurely withdrew retirement assets. He indicated that he would file his 2012 and 2013 tax returns at the same time, and that he expected refunds for tax year 2012, which he would use to pay any taxes owed for 2013. (GE 1.) Applicant relied on his spouse to file their income tax returns because she itemized her self-employment expenses. (Tr. 67.)

Applicant and his spouse filed their joint federal income tax return for tax year 2012 on August 3, 2015. On adjusted gross income of \$54,999, they were entitled to a \$4,889 refund. (AE C.) They filed their federal income tax return for tax year 2013 on August 17, 2015. On adjusted gross income of \$121,052, they underpaid their federal income taxes by \$6,071 for tax year 2013. Their federal income tax refund for tax year 2012 was applied to their tax liability for tax year 2013. (AEs C-D.) With assessed penalties and interest, they owed approximately \$1,618, which they paid. (GE 2; AE D.) Applicant did not present any documentation of his state income tax return for tax year 2012. Applicant's spouse testified about 2012 and 2013 that they owed minimal state taxes for one year and were entitled to a refund of approximately \$2,200 for the other tax year. She advised the state to apply it to any taxes owed for subsequent tax years. (Tr. 94-95.)

In 2015, Applicant's parents-in-law were both diagnosed with cancer. Applicant's spouse put her realtor license in inactive status, and she took on caregiver responsibilities

¹ It is unclear whether Applicant and his spouse were required to file a state income tax return for tax year 2013. He was unemployed that entire year, and there is no evidence that his spouse earned income in a state that taxes employment income. There is no evidence that they were required to file a state return because of his premature withdrawal of retirement assets.

² Applicant did not indicate when he learned state taxes had not been withheld from his pay. His and his spouse's joint income tax return for 2017 shows that no state income taxes were withheld for that tax year. (AE H.) What is clear is that no taxes were withheld before 2018, so his rectification of the issue is recent.

for her parents. Her father died in early September 2018. (Tr. 85-86, 98.) She felt overwhelmed by all of her obligations, and she did not file Applicant and her joint federal or state income tax returns when they were due for tax years 2014 through 2016. (Tr. 69.) Applicant took no responsibility for filing their returns. His spouse had gathered most of the paperwork and thought she could handle it. (Tr. 99.)

On May 3, 2017, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). He volunteered that he and his spouse had yet to file their federal and state income tax returns for tax years 2014 and 2015, but that his spouse was working on them. He expressed hope that she would complete their returns for 2014 and 2015 within the next week. He also indicated that their delinquent tax returns for 2012 and 2013 were filed late; that they owed no federal or state income taxes for tax year 2012, or state income taxes for 2013; and that they have paid their federal tax debt of about \$1,500 for tax year 2013. Applicant expected to owe no tax debt for tax years 2014 and 2015. He told the OPM investigator that he and his spouse “just now have time to sit down and figure [their taxes] out.” (GE 2.)

In September 2017, the DOD CAF requested information from Applicant about his tax situation. On September 22, 2017, Applicant’s spouse indicated that she is responsible for their tax filing and that she was “almost finished with 2014 and have 2015 and 2016 set up to complete as possible.” She requested an extension of time for Applicant because of health issues with her parents, and she is their closest caregiver. Applicant was granted an extension to October 23, 2017, to respond to the DOD CAF’s request. On October 27, 2017, Applicant’s spouse responded that they worked hard to meet the deadline but “circumstances beyond [their] control have made it impossible to get all the returns completed.” Applicant’s spouse indicated that her father was scheduled for upcoming surgery, and she asked for more time. She added that she would continue to work on completing their tax returns. (GE 5.)

On December 8, 2017, the DOD CAF issued a SOR to Applicant because of his failure to file federal and state tax returns by the filing deadlines for tax years 2012 through 2016. In February 2018, Applicant and his spouse retained the services of an enrolled tax agent to assist them in preparing their delinquent income tax returns for tax years 2014 through 2016. (Tr. 87-88.)

With the assistance of the tax agent, Applicant and his spouse filed their federal income tax returns for tax years 2015 and 2016 on June 13, 2018. (AEs F-G.) Their state income tax returns for tax years 2015 and 2016 were completed on June 13, 2018, but were not mailed until the week of September 9, 2018. (Tr. 98.) On joint adjusted gross income of \$57,384 in 2015, they overpaid their federal income taxes by \$798. Their refund was issued to them on July 9, 2018. (AE F.) No state taxes had been withheld from his pay for tax year 2015, which resulted in a tax underpayment of \$1,420. With penalties for late payment, they owed state taxes of \$1,987 for tax year 2015. (AE F.) On adjusted gross income of \$57,159 in 2016, they overpaid their federal income taxes by \$666. Their refund was issued to them on July 9, 2018. No state taxes were withheld from his pay for tax year

2016, and with penalties for failure to timely file and pay, they owed \$1,747 in state taxes for tax year 2016. (AE G.)

Through the enrolled tax agent, Applicant and his spouse requested an extension to October 15, 2018, to file their federal tax return for tax year 2017. On June 13, 2018, they timely filed their federal return for tax year 2017. On adjusted gross income of \$50,931 for tax year 2017, they overpaid their federal income taxes by \$1,695. Their refund was issued to them on June 27, 2018. As with previous tax years, no state income tax had been withheld from Applicant's pay. As a result, they underpaid their non-resident state income taxes by \$1,119. With a \$45 underpayment penalty, they owed the state \$1,197. (AE H.) They mailed their state income tax return for tax year 2017 sometime during the week of September 9, 2018. (Tr. 98.)

Also on June 13, 2018, the tax agent finished Applicant and his spouse's joint federal and state income tax returns for tax year 2014. Based on the returns, Applicant and his spouse underpaid their federal income taxes by \$156 and their state income taxes by \$135 (\$201 with penalties) for tax year 2014. The tax returns could not be submitted electronically, so the tax agent gave them to Applicant's spouse to mail. As of September 10, 2018, the IRS had no record of Applicant and his spouse filing an income tax return for tax year 2014. (AE E.) Applicant's spouse did not file the returns until the week of September 9, 2018, because she waited to see whether the IRS and state tax authority would take part of their refunds for previous years and apply them to their tax liabilities. Applicant and his spouse paid the taxes owed for tax year 2014 when she mailed the returns the week before his security clearance hearing. (Tr. 89-90.) Applicant and his spouse have not yet been billed for any delinquent state taxes, so they have not satisfied their state tax liabilities for 2015 through 2017, which totaled \$4,931 per their returns. They are not sure what they owe. (Tr. 94.)

Applicant's spouse attributes her delay in addressing their tax filings to her parents' and her own medical issues, including since April 2017. Her father had an operation in October 2017, and he died in early September 2018. (Tr. 66, 86, 90.) She assumed that they did not owe taxes because they "had paid the taxes as [they] went along for the most part and it was just the reconciliation part that [she] didn't have time to deal with because of all the medical." (Tr. 102.) Applicant has recently taken on repayment responsibility for some of the household expenses. (Tr. 91.) They intend to retain the services of the tax agent to prepare their future income tax returns. (Tr. 87, 93, 95, 99.)

As of April 2018, Applicant had some outstanding medical collection debt on his credit record: \$85 from May 2015; \$1,211 (disputed) from November 2012; \$66 from September 2015; and \$321 from May 2017. They were making timely payments of \$1,256 per month on their mortgage loan obtained in May 2003. As of April 2018, the loan balance was \$93,538. Applicant was paying \$262 per month on a credit card with a current balance of \$12,818. He had been late 30 days in August 2017 on a car lease payment of \$186 per month, but had been current since then. (AE I.)

Applicant received several awards from a previous employer for his dedication and valuable contributions in support of the military installation. (AE A.) In October 2012, he received a letter of appreciation from his military customer for his expertise on high-priority projects. (AE B.) Applicant completed voluntary training over the years to ensure that he continues to perform his duties in information systems security with professionalism and high quality. (AE A.)

Applicant has the strong endorsement of present and former co-workers, who consider him to be a network administrator of the highest quality. Applicant is relied on for his knowledge and research. He has worked on “countless tasks and projects with sensitive and secret information” and respected privacy and security requirements. Applicant is known for giving security issues priority and resolving them in a timely manner. (AE B.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to

classified information. Decisions include, by necessity, consideration of the possible risk that 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. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F: Financial Considerations

The security concerns about financial considerations are articulated in AG ¶ 18:

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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. 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.

Applicant did not timely file his federal income tax returns for tax years 2012 through 2016 and his state income tax returns for tax years 2012, and 2014 through 2016. He and his spouse were entitled to federal tax refunds every year except for tax year 2014, for which they owed \$156. According to their returns submitted within the week preceding his security-clearance hearing, they owed state income taxes of approximately \$201 for 2014, \$1,987 for 2015, and \$1,747 for 2016. They filed their returns for tax year 2017 on time, but they have yet to pay \$1,197 in state taxes. Applicant did not have state taxes withheld

from his pay for tax years 2014 through 2017. Guideline F security concerns are established when an individual fails to comply with his tax filing obligations whether or not any taxes are owed. Disqualifying condition AG ¶ 19(f), “failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required,” applies.

Applicant has the burden of establishing that matters in mitigation apply. Applicant delegated the filing of their joint income tax returns to his spouse, but he was still responsible for ensuring compliance with such an important obligation as filing returns on time and paying any taxes owed. Regarding possible mitigation under the AGs, one or more of the following conditions under AG ¶ 20 may apply:

(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 person has received or is receiving 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; 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.

Applicant’s failure to file timely federal and state income tax returns for five consecutive tax years, from 2012 through 2016, is too recurrent and recent for mitigation under AG ¶ 20(a). Moreover, even though the delinquent tax returns have all been filed with the submission of his and his spouse’s joint federal tax return for tax year 2014 and state tax returns for 2014 through 2016 during the week of September 9, 2018, their state tax situation has not been fully resolved. Assuming that they paid the taxes owed for 2014

as Applicant's spouse testified, they have made no payments toward \$4,931 in state taxes owed for 2015 through 2017.

Applicant has a case for partial mitigation under AG ¶ 20(b). He had serious medical issues when his federal income tax returns for tax years 2012 and 2013, and his state income tax return for 2012 were due. He was well enough to resume working in June 2014, however, and can reasonably be expected to comply with his tax filing obligations starting with tax year 2014. Given his spouse's self-employment as a realtor, Applicant is not faulted for delegating tax compliance to his spouse. Yet, Applicant exhibited poor judgment in failing to take some steps to ensure that their tax returns for tax years 2014 through 2016 were filed, especially knowing that his spouse was becoming overwhelmed with caregiver duties for her parents and that his unfiled tax returns were of concern to the DOD. Applicant took such a hands-off approach to his taxes that he failed to note that state taxes were not being withheld from his pay for several years. Health issues for his spouse and her parents continued to take his spouse's attention, but Applicant has not provided a credible explanation for his failure to take control over their tax situation. AG ¶ 20(b) requires that an individual act responsibly, and some concern arises in that regard because of Applicant's lack of oversight over his spouse's handling of their tax issues.

AGs ¶¶ 20(c), 20(d), and 20(g) have some applicability in that their delinquent tax returns have now all been filed. Applicant and his spouse expressed a credible intention to utilize the services of their tax agent to file their tax returns in the future. Even so, it is difficult to fully mitigate the security concerns, given the delay in filing some of their income tax returns. They had to mail their state tax returns, which were completed in June 2018 by the tax agent. His spouse held their state income tax returns for tax years 2014 through 2016 and their federal income tax return for 2014 until September 2018, the week before Applicant's security-clearance hearing. She explained that she wanted to see whether any of their federal refunds would be applied toward their tax liabilities. However, available IRS transcripts show that their federal income tax refunds for tax years 2015 and 2016 were issued to them on July 9, 2018. Their federal income tax refund for tax year 2017 was issued to them on June 27, 2018. Available information does not indicate that there were refunds held by the IRS to apply toward their state income tax liabilities. AG ¶ 20(e) applies only in that the tax returns for tax years 2012 and 2013 were filed in August 2015, more than two years before the SOR was issued in December 2017, even though they were filed late.

Even where tax problems have been corrected and an applicant is motivated to prevent such problems in the future, the administrative judge is not precluded from considering an applicant's trustworthiness in light of longstanding prior behavior evidencing irresponsibility. See *e.g.*, ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 2015). The Appeal Board has long held that the failure to file tax returns suggests a problem with complying with well-established government rules and systems. See *e.g.*, ISCR Case No. 14-04437 (App. Bd. Apr. 15, 2016.) Moreover, the Appeal Board recently reaffirmed that the timing of corrective action is an appropriate factor to consider in applying AG ¶ 20(g). See *e.g.*, ISCR Case No. 17-01382 at 4 (App. Bd. May 16, 2018) (citing ISCR Case No. 17-01807 at 3-4 (App. Bd. Mar. 7, 2018)). In reversing favorable clearance grants to applicants with tax

issues by DOHA judges in ISCR Case No. 17-01382 (App. Bd. May 16, 2018) and ISCR Case No. 16-01211 (App. Bd. May 30, 2018), the Appeal Board noted that applicants who only begin to address their delinquent tax returns after having been placed on notice that their clearance might be in jeopardy may not comply with laws, rules, and regulations when their immediate interests are not imperiled. In May 2017 and again in September 2017, Applicant was reminded that his tax matters were of concern for his clearance. There is no evidence that he and his spouse took any steps to resolve the concerns until February 2018, when they retained the services of the tax agent. Circumstances suggest that had the SOR not been issued, the tax returns would still be unfiled. Concerns about Applicant's financial judgment also persist because of his unexplained delay in addressing the tax withholding issue to ensure that state taxes are withheld from his pay.

Whole-Person Concept

In assessing the whole person, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). The analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

The security clearance adjudication involves an evaluation of an applicant's judgment, reliability, and trustworthiness in light of the security guidelines in the Directive. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Applicant's dedication to his work with a defense contractor is unassailable, and there is no indication that he has exercised poor judgment on the job. Applicant and his spouse have had to deal with several serious medical issues for themselves and family members that were clearly not foreseen. However, Applicant has also been able to work full-time for over four years now, and he could reasonably have taken some steps before February 2018 to ensure that his tax issues were being addressed in a timely fashion with or without professional assistance. The Appeal Board has repeatedly held that the government need not wait until an applicant mishandles or fails to safeguard classified information before denying or revoking security clearance eligibility. See, e.g., ISCR Case No. 08-09918 (App. Bd. Oct. 29, 2009) (citing *Adams v. Laird*, 420 F.2d 230, 238-239 (D.C. Cir. 1969)). 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 v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). Under Appeal Board precedent, an applicant who waits to address tax issues until his or her immediate interests are at stake does not show sound judgment and reliability. His eleventh-hour rectification of his tax filings is too recent to create a track record of reasonable assurances that he can be counted on to comply with tax filing deadlines in the future. His failure to give priority to such an important obligation as filing tax returns required by law causes lingering doubt about his security worthiness that has not been fully 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
Subparagraphs 1.a-1.b:	Against Applicant

Conclusion

In light of all of the circumstances, it not is clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge