



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



In the matter of: )  
)  
) ISCR Case No. 19-00915  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Jeff Kent, Esq., Department Counsel  
For Applicant: *Pro se*

12/19/2019

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant failed to timely file his federal and state income tax returns for tax years 2013 and 2016. He has six delinquent medical debts totaling over \$65,000. He did not prove he was unable to timely file his tax returns and to make greater documented progress resolving his delinquent medical debts. Financial considerations security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On April 25, 2018, Applicant completed and signed a Questionnaire for National Security Positions or security clearance application (SCA). (Government Exhibit (GE) 1) On May 17, 2019, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) 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 detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to

determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F (financial considerations). (HE 2) On August 20, 2019, Applicant responded to the SOR and requested a hearing. (HE 3)

On September 18, 2019, Department Counsel was ready to proceed. On October 10, 2019, the case was assigned to me. On October 15, 2019, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for November 15, 2019. (HE 1) The hearing was held as scheduled.

During the hearing, Department Counsel offered three exhibits; Applicant offered two exhibits; there were no objections; and all proffered exhibits were admitted into evidence. (Tr. 13-17; GE 1-3; Applicant Exhibits (AE) A-AE B) I granted Applicant's request for additional time to submit documentation. On December 2, 2019, DOHA received a transcript of the hearing. On December 12, 2019, Applicant provided one exhibit, which was admitted into evidence. (AE A) The record closed on December 13, 2019. (Tr. 41-44)

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

### **Findings of Fact**

In Applicant's SOR response, he admitted all of the SOR allegations. (HE 3) His admissions are accepted as findings of fact.

Applicant is a 61-year-old laboratory technician employed by a subcontractor for a major defense contractor. (Tr. 5-7; GE 1) He graduated from high school in 1975. (Tr. 5) In 1978, he received an associate's degree in aerospace technology. (Tr. 5) He has never served in the U.S. military. (Tr. 5) He was married from 1978 to 1994, and his five daughters are all older than 30 years old. (Tr. 6; AE A) Applicant is an excellent employee who made substantial contributions to his company and the national defense over a lengthy career. There is no evidence of security violations.

Applicant worked for a defense contractor for 37 years; he was retired in May of 2015; and he returned to work for the same employer in February of 2018. (Tr. 7, 17-18) Applicant's monthly salary is about \$7,200 a month. (Tr. 28) He has about \$30,000 in his checking account. (Tr. 29) He receives a monthly pension from his employer of about \$2,600. (Tr. 30, 37)

### **Financial Considerations**

The SOR alleges the following financial allegations:

SOR ¶¶ 1.a and 1.b allege Applicant failed to timely file his federal and state income tax returns for tax years 2013 and 2016. Applicant said that his failure to timely file his tax returns was "on me. I'm a procrastinator. I can't argue that point, so I didn't file

the taxes. I have been working with [the Internal Revenue Service (IRS)] as my exhibits show.” (Tr. 20)

Applicant did not file his state and federal income tax returns for tax years 2012 to present. (Tr. 20-22, 37) However, he suggested he may have filed a tax return for one of those tax years over the 2012 to 2018 period. (Tr. 37) He did not know which tax year he may have filed a tax return. (Tr. 37) He lacked the documentation for some years to file his tax returns. (Tr. 22) He did not know how much he owed the IRS. (Tr. 23)

The IRS notified Applicant that he had tax debts for tax years 2012 and 2016. (Tr. 33-34) On October 3, 2018, Applicant paid the U.S. Treasury \$1,151 for tax year 2012. (AE B at 2) On June 11, 2019, Applicant paid the U.S. Treasury \$3,400 for tax year 2016. (AE B at 1) He is waiting for the IRS to send him tax bills for other tax years. (Tr. 34) When the IRS files substitute tax returns for him and sends him a tax bill, he pays the IRS. (Tr. 38) He has not received any bills from the state for delinquent taxes. (Tr. 38) Applicant did not indicate whether the IRS provides IRS-generated substitute tax return information to state tax authorities.

SOR ¶¶ 1.c, 1.d, 1.e, 1.f, 1.g, and 1.h allege Applicant has six medical debts placed for collection for \$65,566, \$645, \$540, \$450, \$292, and \$60. Applicant had two heart attacks, and he received surgery. (Tr. 23-24) He said he paid about \$5,000 to \$8,000 over the previous six years to address the medical debts. (Tr. 26) He did not provide documentation such as receipts showing any payments of medical debts. In the past two years he has paid about \$6,000 for prescription medications. (AE A)

In 2019, Applicant had a suspected heart attack; however, it turned out not to be a heart attack. (Tr. 25) He was transported to the hospital with a helicopter. (Tr. 23-25) On October 25, 2019, a medical creditor wrote Applicant and offered to accept monthly payments of \$453 beginning when the agreement is signed. (AE A) According to the agreement, the payments were supposed to be made until the \$13,587 debt was paid in full. (AE A) The agreement was not signed and dated. (AE A) Applicant’s insurance did not pay for the helicopter transportation to the hospital because the insurance company decided it was not medically necessary, and/or he lacked prior approval. (Tr. 25) Applicant said he was disputing his responsibility for the debt. (Tr. 25) He said he was willing to start making a \$300 monthly payments. (Tr. 40)

Since 2017, Applicant went to Jamaica about seven times for five to seven days for each trip. (Tr. 35) In 2019, Applicant went to Jamaica for six or seven days for a vacation. (Tr. 34) He also traveled to Costa Rica twice. (Tr. 36)

In conclusion, Applicant conceded that he has not filed tax returns for several years, and he had a large number of medical debts. (AE A) Nevertheless, his credit score is “ok.” (AE A) He was able to purchase a used vehicle this year at a reasonable rate and secure a mortgage to buy his home at a low interest rate. (AE A) He worked diligently for 40 years and made important contributions to national security, and he denied that he is “in any way a risk to our national security.” (AE A)

## 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.

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 DNI 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 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 disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(b) unwillingness to satisfy debts regardless of the ability to do so”; “(c) a history of not meeting financial obligations”; and “(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.” The record establishes AG ¶¶ 19(b), 19(c), and 19(f).

AG ¶ 20 lists financial considerations mitigating conditions which may be 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 had serious medical problems which resulted in more than \$65,000 in delinquent medical debt. He may have been underemployed after he retired until he was re-employed by his company. These are circumstances beyond his control that adversely affected his finances. However, these circumstances are insufficiently detailed to prove he acted responsibly under the circumstances. There are not clear indications his financial problems are under control.

Applicant did not timely file his state and federal income tax returns for tax years 2012 to present. He suggested he may have filed a tax return for one of those tax years over the 2012 to 2018 period; however, he did not know which year he filed a tax return. He did not know how much he owed the IRS.

Applicant has taken an important step towards showing his financial responsibility. After the IRS generates substitute tax returns and sends him bills, he pays them. The IRS notified Applicant that he had tax debts for tax years 2012 and 2016. On October 3, 2018, Applicant paid the U.S. Treasury \$1,151 for tax year 2012. On June 11, 2019, Applicant paid the U.S. Treasury \$3,400 for tax year 2016. He is waiting for the IRS to send him tax bills for other tax years. He has not received any bills from the state for delinquent taxes. He did not establish that he was unable to timely file his tax returns.

Applicant's SOR does not allege he did not timely file his federal and state tax returns for tax years in addition to those alleged in the SOR (tax years 2013 and 2016). In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility;
- (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances;
- (c) to consider whether an applicant has demonstrated successful rehabilitation;
- (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or
- (e) to provide evidence for whole person analysis under Directive Section 6.3.

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). The non-SOR allegations will not be considered except for the five purposes listed above.

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 return, keep records, or supply information when required, is a misdemeanor without regard to the 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 his federal income tax returns against him as a federal crime. In regard to the failure

to timely file federal and state income tax returns, the DOHA Appeal Board has commented:

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 note 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).

In ISCR Case No. 15-01031 at 2 (App. Bd. June 15, 2016), the Appeal Board reversed the grant of a security clearance, and noted the following primary relevant disqualifying facts:

Applicant filed his 2011 Federal income tax return in December 2013 and received a \$2,074 tax refund. He filed his 2012 Federal tax return in September 2014 and his 2013 Federal tax return in October 2015. He received Federal tax refunds of \$3,664 for 2012 and \$1,013 for 2013.

AG ¶ 20(g) applies in part because the IRS filed some substitute tax returns on Applicant’s behalf; he has been paying his taxes through withholdings from his pay; and he paid the IRS when he was billed. However, the timing of the filing of his tax returns is an important aspect of the analysis. Even if no taxes are owed when tax returns are filed, the Appeal Board provided the following principal rationale for reversing the grant of a security clearance:



Failure to comply with Federal and/or state tax laws suggests that an applicant has a problem with abiding by well-established Government rules and regulations. Voluntary compliance with rules and regulations is essential for protecting classified information. . . . By failing to file his 2011, 2012, and 2013 Federal income tax returns in a timely manner, [that applicant] did not demonstrate the high degree of good judgment and reliability required of persons granted access to classified information.

ISCR Case No. 15-01031 at 4 (App. Bd. June 15, 2016) (citations omitted). In ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017) the Appeal Board reversed the grant of a security clearance, discussed how AG ¶ 20(g) applied, and noted:

The timing of the resolution of financial problems is an important factor in evaluating an applicant's case for mitigation because an applicant who begins to resolve financial problems only after being placed on notice that his clearance was in jeopardy may lack the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his own interests. In this case, Applicant's filing of his Federal income tax returns for 2009-2014 after submitting his SCA, undergoing his background interview, or receiving the SOR undercuts the weight such remedial action might otherwise merit.

Applicant has six delinquent medical debts totaling more than \$65,000. He said he has been making some payments to address his medical debts; however, he did not provide any corroborating proof of payments, such as receipts, correspondence from creditors, or cancelled checks. A debt that became delinquent several years ago is still considered recent because "an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sept. 13, 2016)).

In sum, there is insufficient evidence about why Applicant was unable to timely file his tax returns. He did not establish he was unable to make greater progress resolving his delinquent medical debts. Applicant 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.

Applicant is a 61-year-old laboratory technician employed by a subcontractor for a major defense contractor. In 1978, he received an associate’s degree in aerospace technology. He worked for a defense contractor for 37 years; he was retired in May of 2015; and he resumed employment with the same employer in February of 2018. Applicant is an excellent employee who made substantial contributions to his company and the national defense over a lengthy career. There is no evidence of security violations.

The Appeal Board’s emphasis on security concerns arising from tax cases is instructive and binding on administrative judges. 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 the retired E-9’s 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 college tuition and expenses, and spouse’s serious medical and mental health 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 *a/so* 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.”).

The primary problems here relate to Applicant’s handling of his federal and state income taxes. Applicant knew that he needed to timely file his income tax returns. He may not have fully understood or appreciated the importance of this requirement. He procrastinated. He did not establish he was unable to make greater progress resolving his tax issues. His actions under the Appeal Board jurisprudence are too little, too late to fully mitigate security concerns. Applicant’s failure to “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 [his] reliability, trustworthiness, and ability to protect classified or sensitive information.” AG ¶ 18.

It is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence to the facts and circumstances in the context of the whole person. Unmitigated financial considerations security concerns lead me to conclude that grant of a security clearance to Applicant is not warranted at this time.

### **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 through 1.h:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not 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.

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Mark Harvey  
Administrative Judge