



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
 [Name Redacted]) ISCR Case No. 18-00684
)
)
 Applicant for Security Clearance)

Appearances

For Government: Gatha Manns, Esquire, Department Counsel
For Applicant: *Pro se*
04/22/2020

Decision

KATAUSKAS, Philip J., Administrative Judge:

On March 14, 2018, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992); and the adjudicative guidelines (AG) effective within the Department of Defense on June 8, 2017.

On April 16, 2018, Applicant answered the SOR and requested a hearing before an administrative judge. Department Counsel was ready to proceed on June 27, 2018. The case was assigned to me on September 13, 2018. A notice of hearing was issued on December 19, 2018, scheduling the hearing on January 15, 2019. The hearing was held as scheduled. During the hearing, the Government offered five exhibits which were admitted as Government Exhibits (Gov) 1 – 5. Applicant testified and offered 17 exhibits which were admitted as Applicant Exhibits (AE) A – Q, without objection. The record was held open until January 29, 2019, to allow Applicant to submit additional documents. He timely submitted three documents which were admitted as AE R – T, without objection. The transcript (Tr.) was received on January 25, 2019. Based upon a

review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

Findings of Fact

Applicant is a 50-year-old employee of a DoD contractor seeking to maintain a security clearance. He has worked for his current employer since 2015. Applicant also has his own company, but he stopped running the business in 2016. Prior to his current job, he worked for private industry, government contractors, and as a federal government civilian employee. He has held a security clearance on and off since 1986. The highest level of education Applicant has achieved is a doctorate degree. He is a graduate of the U.S. Naval Academy. He served on active duty for over four years. He was medically discharged and received an honorable discharge. He is married and has three adult children. (Tr.67-74, 123; Gov 1)

On July 17, 2017, Applicant submitted a security clearance application. (Gov 1) A subsequent security clearance background investigation resulted in the following SOR allegations: Applicant failed to file his Federal and State income returns for tax years 2011, 2012, 2013, 2014, and 2015. (SOR ¶ 1.a: Gov 1 at 60-65); a delinquent mortgage account was past due in the amount of \$38,371 with a total approximate balance of \$391,536. (SOR ¶ 1.b: Gov 1 at 67-69; Gov 2 at 2; Gov 3 at 5); a homeowners association filed a warrant in debt against Applicant on January 2018 (SOR ¶ 1.c: Gov 4 at 1-2); a \$13,907 delinquent account with a bank was placed for collection (SOR ¶ 1.d: Gov 2 at 2; Gov 3 at 2); and a \$7,263 credit-card account was charged off. (SOR ¶ 1.e: Gov 2 at 2; Gov 3 at 2).

Additional allegations include: a charged-off account with a bank in the amount of \$4,668 (SOR ¶ 1.f: Gov 2 at 2; Gov 4 at 3-4); an account with a timeshare owner's association in the amount of \$1,268 that was placed for collection. (SOR ¶ 1.g: Gov 2 at 10); and a \$134 delinquent medical account that was placed for collection.(SOR ¶ 1.h: Gov 2 at 10).

Failure to File State and Federal Income Tax Returns

Applicant admits he failed to file his federal and state income tax returns for tax years 2010, 2011, 2012, 2013, 2014 and 2015. He failed to file his income tax returns initially because he moved in 2009 to a new area and immediately was assigned overseas for five months. When he returned in May 2010, he was late filing his tax returns, and he could not find his documentation because it was located in storage. Applicant admits he procrastinated filing his state and federal tax returns over the next five years. He believed that he was to receive refunds and did not think it was important to file his state and federal tax returns. At the urging of his friends, Applicant hired a CPA in 2016. His state and federal tax returns for tax years 2010 – 2015 were filed in June 2016. Applicant received refunds on his tax returns. There is no indication in the record whether the Internal Revenue Service assessed a penalty regarding the late filing of the returns. (Tr. 79-84; Answer to SOR; AE H – M)

In the middle of 2017, Applicant was contacted by the state department of taxation regarding his failure to file back taxes. The state apparently lost the tax returns so Applicant re-submitted his state tax returns for tax years 2010 – 2015 in April 23, 2018. In a letter dated August 31, 2018, the state department of taxation indicated Applicant owed \$464.59. On January 10, 2019, the state department of taxation issued Applicant a refund on \$111.40 for tax year 2015. (Tr. 86-89, 91-92; AE P; AE Q)

During the hearing, Applicant testified that he had not filed his state and federal tax returns for tax years 2016 and 2017. Applicant testified that his failure to file his state and federal tax returns for 2016 and 2017 was his responsibility. He was still gathering documentation to give to his accountant to file the returns. (Tr. 89-90, 93)

During the hearing, Department Counsel moved to amend to the SOR to be in conformity with the evidence in accordance with Directive, paragraph E3.1.17. The motion was granted, but the record was held open for an additional two weeks to allow Applicant additional time to provide additional documents regarding the status of his 2016 and 2017 federal and state tax returns. (Tr. 132-136) After the hearing, Applicant timely provided an Internal Revenue Service (IRS Form 4868), Application for Automatic Extension of Time to File U.S. Individual Income Tax Return for tax year 2017. The extension gave Applicant six more months to file his 2017 income tax return, which would have been due October 15, 2018. At the close of the record, there was no proof that Applicant filed his state and federal income tax returns for 2016 and 2017. (AE R; AE S)

Other Financial Issues

In 2005, Applicant and his wife built a house which ended up costing more than they had anticipated. In order to pay for some special upgrades during the home construction, Applicant charged a lot on his credit cards. As the sole breadwinner of the family, Applicant had difficulty making the mortgage payments. In May 2008, Applicant resigned his position as a U.S. contractor and accepted a position as a GS-15 with the federal government. His new job was located in another city several hours from where he resided. He commuted to his new job location during the week and would return home on the weekends. (Tr. 94-99; Answer to SOR)

In June 2008, Applicant put the house on the market in the midst of the housing crisis. The mortgage on the house was more than the value of the house. He rented the house for a few years, but often the rent did not cover the mortgage. He had difficulty making payments and got behind on his other finances. (Tr. 94-100; Answer to SOR)

In 2017, Applicant changed jobs and began working as a government contractor, hoping that it would increase his income. He continued to fall behind on his expenses. He refused to give up on his debts. Towards the end of 2017, the contract that he was working on was not renewed. He lost billable hours resulting in his financial situation becoming more unstable. He was only able to find a contract job which paid one third of his previous income. (Answer to SOR)

In January 2017, Applicant stopped making mortgage payments. He attempted to obtain a short sale the property or a deed in lieu of foreclosure. His efforts were unsuccessful. The home was foreclosed in October 2017. (Tr. 95-103; Answer to SOR)

After many years of trying to keep his mortgage and maintain his finances, Applicant contacted a debt-relief agency to help him negotiate his delinquent accounts. Applicant signed an agreement with the debt-relief agency on March 20, 2018. He pays the debt-relief agency \$1,500 a month, which the debt-relief agency uses to enter into settlement agreements and pay off debts. His anticipated debt-free target is March 2022. (Tr. 105-106; Answer to SOR; AE C – AE G).

The accounts in the plan with the debt-relief agency include the debts alleged in SOR ¶¶ 1.d, 1.e, and 1.g. In addition, there were several debts that are not alleged in the SOR. The debts include a \$47,800 debt owed to a bank, which is the second mortgage on the home that went to foreclosure; a \$20,800 debt owed to a bank; a \$20,543 debt owed to a credit union, and a \$5,278 debt owed to a financial services company. (Tr. 103-106; AE D; AE E; AE F; AE G; AE N) 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.

(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)). I have considered the non-SOR derogatory information accordingly.

The status of the SOR debts is:

SOR ¶ 1.a: - Failure to file state and federal income tax returns for 2010, 2011, 2012, 2013, 2014, and 2015 - During the hearing, SOR ¶ 1.a was amended to add tax years 2016 and 2017. The state and federal tax returns for 2010 to 2015 were filed in June 2016. He resubmitted the state tax returns for tax years 2010 to 2015 in 2018. It appears he received refunds for each year. No documentation was provided from the Internal Revenue Service (IRS) discussing the status of his tax situation, such as if penalties were imposed as a result of the late filing of his tax returns. At the close of the record, the state and federal tax returns for tax years 2016 and 2017 remain unfiled.

SOR ¶ 1.b: - Mortgage past due in the amount of \$38,371, with a total balance of \$391,536 - The home was foreclosed in 2017. Applicant stopped making mortgage payments in January 2017. He is not aware whether he owes a deficiency after the mortgage foreclosure. In his answer to the SOR, he provided a copy of an IRS form

1099-A, Acquisition of Abandonment of Secured Property. It states the foreclosure occurred on November 14, 2017. The fair market value of the property was \$421,104. The balance on the principle mortgage was \$391,535. It appears there was no deficiency regarding the primary mortgage. (Tr. 94-103; Answer to SOR, attach 1.b)

SOR ¶ 1.c: - Warrant in debt filed against Applicant by a homeowner's association - On February 27, 2018, an attorney collecting on behalf of the homeowner's association, wrote Applicant indicating that they received a payment towards the account in the amount of \$1,923.81. There was a balance of \$70.43. Applicant paid off the remaining \$70.43 balance in April 2018. The debt is resolved. (Tr. 106-108; Answer to SOR, attach 1.c; AE A)

SOR ¶ 1.d: - \$13,907 debt placed for collection - Applicant believes this is either a credit-card debt or a debt owed to a timeshare. In April 2018, the debt-relief agency negotiated a settlement for Applicant in the amount of \$6,258.27. Payments towards the settlement were to begin soon thereafter. (Tr. 108-111; AE N)

SOR ¶ 1.e: - \$7,263 charged-off credit account with a store - On April 3, 2018. Applicant's debt-relief agency negotiated a settlement of \$2,905. Payments to be made in monthly installments of \$255. Applicant provided proof that monthly payments were made from April 2018 to December 2018. (Tr. 112; AE N; AE O)

SOR ¶ 1.f: - \$4,668 charged-off account: Agency negotiated this debt - He agreed to pay \$2,000 by December 2017. The remaining balance of \$2,668 was discharged by the creditor in tax year 2017. In his response to the SOR, Applicant provided a copy of the 1099-C, Cancellation of Debt, from the creditor. The \$2,668 amount was discharged. The account is resolved. However, Applicant may have some tax implications as a result of the cancellation of debt. (Tr. 114; Answer to SOR, attachment 1.f)

SOR ¶ 1.g: - \$1,268 collection account for fees owed to a timeshare - This account is being negotiated by his debt-relief agency. On April 9, 2018, an agreement was reached to settle this account. The balance was \$5,479. Applicant agreed to pay \$2,188.51 and to sign a deed in lieu of foreclosure. He agreed to pay \$211 a month from May 2018 to February 2019 to settle the account. He provided proof payments were made from May 2018 to December 2018. (Tr. 115-116; Answer to SOR; AE B; AE N; AE O)

SOR ¶ 1.h: - \$134 medical collection account - Applicant disputes this debt because he does not recognize the account. (Tr. 116)

Applicant owned three timeshares. The first timeshare was purchased in 1994. He owned this timeshare, but was still responsible for fees. He purchased a second timeshare a few years later. He purchased a third timeshare in 2009, after his family moved to his new work location. He wanted a place for his wife and children to go to the pool during the summer. Applicant could not pay his annual fees for all three

timeshares. He is negotiating settlements with them in his debt-relief plan. (Tr. 117-120)

Applicant has not sought the advice of a financial planner or credit counselor. He has not used a credit card in over a year. He testified that he has no open credit-card accounts. He has not incurred new debt within 16 months prior to the hearing. He does not know the amount of his current monthly income. In addition to his salary, he receives a \$1,300 monthly payment from the Veteran's Administration for his medical retirement and disability. He does not know what his monthly expenses are. He claims he is able to pay his debts and has a little income left over each month. He does not have a 401(k). (Tr. 121-129)

Whole-Person Evidence

Dr. J., Applicant's friend and business partner, testified during the hearing. He has known Applicant since 2004. Their business contracts with private and government organizations for training. They both studied for their doctoral programs at the same time. Around 2015, Dr. J. invited Applicant to come work for him as a contractor. They have been business partners since 2015. There was a period around 2016 where some of their contracts ended and there was no money coming into the business. (Tr. 28-37)

Dr. J. is aware of Applicant's tax and financial issues. In October 2018 or 2019, he was contacted by the IRS and told to change Applicant's tax withholdings to zero exemptions. He testified that Applicant is not good at paper work, which is the cause of Applicant's problems. Aside from these issues, Applicant's character is beyond reproach. His reliability and ethics are good. Dr. J. has no concerns with Applicant having a security clearance. (Tr. 40-43)

Dr. J. is in charge of the S corporation. The corporation has four full-time employees and two part-time employees. They all work on different contracts. He estimates Applicant's annual income was approximately \$175,000 annually in a good year when Applicant worked a full schedule. Applicant's income was less in years where they did not have as many contracts. There was not much business in 2016 and 2017, so Applicant earned less income. In 2017, Applicant changed to being a salaried employee. His annual income is around \$143,000. (Tr. 46-49, 56)

Applicant told Dr. J. about his financial issues in 2015. Dr. J. does all of the bookkeeping, so he is not concerned about Applicant's financial situation. He wants Applicant to resolve his tax situation before he is listed as a company officer. (Tr. 50-51.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying

conditions and mitigating conditions, which are useful 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 overarching 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 access 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 as to obtaining 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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).

GUIDELINE F: Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

AG ¶ 19 notes several disqualifying conditions that could raise security concerns. The disqualifying conditions that are relevant to Applicant's case include:

- (a) inability to satisfy debts;
- (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.

Applicant has a long history of financial problems since around 2008. The SOR alleged a delinquent mortgage account; and over \$27,000 in delinquent consumer debts. He failed to file his federal and state income tax returns for tax years 2010 to 2017. AG ¶¶ 19(a), 19(b), 19(c), and 19(f) apply to Applicant's case.

An individual who is financially irresponsible may also be irresponsible, unconcerned, or careless in his obligations to protect classified information. Behaving irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life. A person's relationship with his creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to pay debts under agreed terms. Absent evidence of strong extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a situation of risk inconsistent with the holding of a security clearance. An applicant is not required to be debt free, but is required to manage his finances in such a way as to meet his financial obligations.

With regard to Applicant's federal tax debts, the emphasis of the DOHA 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 and emphasizing the applicant's failure to timely file and pay taxes); See also ISCR Case No. 14-03358 at 3, 5 (App. Bd. Oct. 9, 2015) (reversing grant of a security clearance, 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 Government's substantial evidence and Applicant's admissions raise security concerns under Guideline F. The burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the security concerns. (Directive ¶E3.1.15) An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. Sept. 22, 2005))

AG ¶ 20 includes examples of conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions potentially 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 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; 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.

AG ¶ 20(a) does not apply because Applicant's financial problems have occurred over a long period of time and are ongoing. While he has obtained the services of a debt-relief agency, it is noted that he did not retain the services of the debt-relief agency

until after the SOR was issued. It is too soon to conclude that he will complete all of his debt-settlement agreements. Applicant's failure to timely file his federal and state tax returns over an eight-year-period remains an issue. The record is lacking evidence regarding whether he owes any penalties to the IRS for his late filing of his 2010-2015 federal tax returns. At the close of the record, he had not filed his federal and state income tax returns for tax years 2016 and 2017. Concerns remain about his judgment, trustworthiness, and reliability.

AG ¶ 20(b) partially applies because Applicant's financial situation was adversely affected by the mortgage crisis of 2008 and the loss of a contract resulted in an income reduction. These circumstances were beyond his control and adversely affected his ability to pay his bills. However, this mitigating condition is given less weight because he has not demonstrated he acted responsibly under the circumstances. His procrastination in resolving his tax, mortgage, and financial issues over a number of years indicate that he was ignoring the problem. For this reason AG ¶ 20(b) is given less weight.

AG ¶ 20(c) does not apply. Applicant did not take a formal financial-counseling course. His financial situation is not under control.

AG ¶ 20(d) partially applies because Applicant entered into an agreement with a debt-relief agency in March 2018 to help with settling his debts. He has shown proof that the debts in SOR ¶¶ 1.c and 1.f are paid, and that he has entered into settlement agreements to pay the debts alleged in SOR ¶¶ 1.d, 1.e, and 1.g. It is too soon to conclude that he will complete the payment plans based on his history of financial irresponsibility. A promise to pay in the future is not sufficient to mitigate security concerns raised under the financial considerations. Applicant's plan with the debt-relief agency included four debts that were not alleged in the SOR, to include a \$47,800 second mortgage from the house that was foreclosed and approximately \$46,000 in consumer debt. His heavy debt as well his failure to timely file his federal and state income tax returns over an eight-year-period give this mitigating condition less weight.

AG ¶ 20(g) applies, in part, because Applicant filed his federal and state tax returns for tax year 2010-2015 in June 2016. However, it is troubling that he has yet to file his federal and state income tax returns for 2016 and 2017. He did not provide a good justification for not filing his 2016 and 2017 federal and state tax returns. While his documents indicate he was owed a refund, he did not provide documentation from the IRS, such as copies of his tax transcripts indicating the status of his taxes and whether he owes late filing penalties.

I find SOR ¶ 1.h for Applicant. He did not recognize this medical debt. There was insufficient information for him to research whether the debt belonged to him. The minimal amount of the debt does not raise a concern.

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), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered Applicant's favorable employment history as a federal contractor and employee. I considered how the 2008 mortgage crisis affected his ability to sell his house. I considered the impact the nonrenewal of a contract affected his income. I also considered his history of financial problems beginning in 2009. Most concerning is his failure to file his federal and state income tax returns over an eight-year-period. Procrastination is not a sufficient excuse for his failure to file his federal and state tax returns. While he took steps to file his federal and state tax returns for tax years 2010 to 2015 in June 2016, he failed to timely file his federal and state tax returns for tax years 2016 and 2017. At the close of the record, the returns had not been filed. If individuals are to be entrusted with our nation's secrets, they have a duty to timely file their federal and state income tax returns. Security concerns under financial considerations 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
Subparagraphs 1.a, 1.b, 1.d, 1.e, 1.g	Against Applicant
Subparagraphs 1.c, 1.f., 1.h	For Applicant

Conclusion

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

PHILIP J. KATAUSKAS
Administrative Judge