



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



In the matter of: )  
)  
) ISCR Case No. 20-02897  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Adrienne Driskill, Esq., Department Counsel  
For Applicant: *Pro se*

February 7, 2023

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**Decision**

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TUIDER, Robert, Administrative Judge:

Applicant failed to mitigate security concerns regarding Guideline F (financial considerations). National security eligibility is denied.

**Statement of the Case**

On October 1, 2018, Applicant submitted a Questionnaire for National Security Positions (SF-86). On February 11, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F. The SOR detailed reasons why the CAF was unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On May 17, 2021, Applicant submitted his Answer to the SOR. On June 29, 2021, Department Counsel was ready to proceed.

On July 9, 2021, the Defense Office of Hearings and Appeals (DOHA) assigned the case to me. On July 22, 2021, DOHA issued a notice of hearing scheduling the hearing for September 8, 2021. On September 7, 2021, DOHA issued a notice of

cancellation. On September 14, 2021, DOHA issued a second notice of hearing scheduling the hearing for October 12, 2021. The hearing commenced as rescheduled. I admitted Government Exhibits (GE) 1 through 7 without objection. (Tr. 10) Applicant testified and did not call any witnesses to testify on his behalf. I admitted Applicant Exhibits (AE) A through G without objection. (Tr. 11) On October 26, 2021, DOHA received the hearing transcript. (Tr.).

## **Findings of Fact**

### **Background Information**

Applicant is a 37-year-old logistics manager, who has been employed by a defense contractor since September 2018. He believes that he has an interim Secret security clearance. Maintaining a clearance is a requirement of his continued employment. (Tr. 11-14)

Applicant graduated from high school in June 2003. He has earned approximately 100 credit hours from two online universities and hopes complete a Bachelor of Arts degree in business management at some point in the future. (Tr. 14-16) Applicant served in the U.S. Marine Corps from July 2003 to July 2012, and was honorably discharged as a sergeant (pay grade E-5). His military occupational specialty was 6092 (aircraft intermediate level structures mechanic). While in the Marine Corps, he made three deployments, with one of those being a combat tour to Iraq and then to Afghanistan. (Tr. 16-18)

Applicant was married two times. His first marriage was from November 2005 to October 2010, and his second marriage was from November 2010 to October 2013. Both marriages ended by divorce. He has been in a cohabitant relationship from October 2014 until the present. (Tr. 19-21) Applicant has five children. He has one son from his first marriage, a son and daughter from his second marriage, and a son and a daughter with his cohabitant. (Tr. 21-23) Applicant is paying \$345 in child support to his first wife for their son, and is paying \$1,760 in child support to his second wife for his son and daughter. His two youngest children are living with Applicant and his cohabitant. (Tr. 23-24) His cohabitant is employed as a dental assistant. (Tr. 25)

### **Financial Considerations**

The SOR lists 15 allegations under this concern, the first 12 are for delinquent accounts to various creditors, two involve his failure to file his Federal and state income tax returns, and one involves a state tax lien, all of which are discussed in further detail below. (SOR ¶¶ 1.a – 1.o) These allegations are established by his October 1, 2018 SF-86; his December 22, 2020 Response to DOHA Interrogatories containing his Office of Personnel Management (OPM) Report of Investigation (ROI) conducted from January 10, 2019 to March 21, 2019, to include summarized results of his Personal Subject Interviews (PSI) on February 5, 2019; his November 16, 2018, August 15, 2019, February 13, 2020, and June 29, 2021 credit reports; his December 7, 2017 state tax

lien, his May 17, 2021 SOR Response, and his hearing testimony. (GE 1 through 7; SOR Answer)

Applicant's financial difficulties began in 2012, when he was discharged from the Marine Corps and separated from his second wife. After he separated, he was paying child support, did not have a steady income, and had a girlfriend. He explained, "I just kind of got behind on things and I started getting these – payday loans." He stated his second wife "filed for bankruptcy and let our car go at that time." He summarized his position, "And from there, I've tried to recover as best as I could and that's just kind of where I'm at now." (Tr. 26-28)

A summary of Applicant's SOR allegations follows, along with their current status.

**SOR ¶ 1.a: Indebted to his county in the amount of \$36,341 in child support arrearages for his two children with his second wife.** In his SOR Answer, Applicant admitted this allegation. He added that he was currently paying \$1,760 a month to his second wife, of which \$250 was being applied to arrearages. He stated that he has not missed any payments in 24 months. (SOR Answer)

During his hearing, Applicant reiterated what he stated in his SOR Answer. He stated that his child support arrearages are deducted from his paycheck "for multiple years at this point." Applicant submitted a letter from his second wife in which she stated that Applicant is paying her "\$1500 for child support and \$260 for arrearages of child support every month." (Tr. 28-29; GE 3; AE A) Applicant did not have a printout of what he currently owed in child support, but was certain that he was paying the amount he stated during his hearing testimony by payroll deduction. (Tr. 29-35) **DEBT BEING RESOLVED.**

**SOR ¶ 1.b: Charged-off credit union automobile loan in the amount of \$4,197. (Same creditor as in SOR ¶¶ 1.e and 1.h)** In his SOR Answer, Applicant admitted this allegation. He added that he could set up a payment plan for this account, if needed. (SOR Answer)

During his hearing, Applicant stated that he had title to a 1987 or 1988 Mercedes that he used as collateral to borrow money. Applicant has no idea where the vehicle is and has not been in contact with the creditor because the debt "was written off." He stated this account was not on the credit report that he pulled, but acknowledged that it appeared on the Government's credit report. (Tr. 35-37; GE 3) **DEBT NOT RESOLVED.**

**SOR ¶ 1.c and 1.d – Collection pay day loan accounts in the amounts of \$3,172 and \$2,521.** In his SOR Answer, Applicant admitted these allegations. He added that he could set up a payment plans for these accounts, if needed. (SOR Answer)

During his hearing, Applicant stated that these loans were taken out "probably around 2014." He set up a 22-month payment plan with the creditor for these two accounts with his first payment of \$259 due on October 12, 2021 (day of hearing).

Applicant claimed that he made his first payment, but did not have proof of payment. (Tr. 37-40; GE 3; AE B) **DEBTS BEING RESOLVED.**

SOR ¶ 1.e – **Collection credit union credit card account in the amount of \$1,271. (Same creditor as in SOR ¶¶ 1.b and 1.h)** In his SOR Answer, Applicant admitted this allegation. He added that he could set up a payment plan for this account, if needed. (SOR Answer)

During his hearing, Applicant reiterated that he could set up a payment plan for this account. He stopped making payments on this account in 2014, and has not contacted the creditor. (Tr. 40-41) **DEBT NOT RESOLVED.**

SOR ¶ 1.f – **Charged-off credit card account in the amount of \$9,530.** In his SOR Answer, Applicant admitted this allegation. He added that this credit card was opened by his ex-wife, who has since filed bankruptcy. He stated that this account does not show up on his credit report. He also stated that he could set up a payment plan, if needed. (SOR Answer)

During his hearing, Applicant stated that his second ex-wife applied for this credit card, and he also used it. He stopped making payments on this card in 2012, and has not contacted the creditor. He suspects this account was discharged when his ex-wife filed bankruptcy, but is not certain of that. (Tr. 41-43) **DEBT NOT RESOLVED.**

SOR ¶ 1.g – **Collection credit card account in the amount of \$2,107.** In his SOR Answer, Applicant admitted this allegation. He added that this credit card was opened by his ex-wife, who has since filed bankruptcy. He stated that this account does not show up on his credit report. He also stated that he could set up a payment plan, if needed. (SOR Answer)

During his hearing, Applicant stated that he stopped making payments on this card in 2012, and has not contacted the creditor. He corrected his SOR Answer stating that he believed this credit card was in his name. (Tr. 43-44) **DEBT NOT RESOLVED.**

SOR ¶ 1.h – **Charged-off credit union credit card in the amount of \$766. (Same creditor as in SOR ¶¶ 1.b and 1.e)** In his SOR Answer, Applicant admitted this allegation. He added that this credit card was opened by his ex-wife, who has since filed bankruptcy. He stated that this account does not show up on his credit report. He also stated that he could set up a payment plan, if needed. (SOR Answer)

During his hearing, Applicant confirmed that this is the third credit card he had with this credit union. He stopped paying all three credit cards in the 2012 to 2013 timeframe. He has not contacted this creditor. (Tr. 44-45) **DEBT NOT RESOLVED.**

SOR ¶ 1.i – **Collection cell phone account in the amount of \$1,137.** In his SOR Answer, Applicant admitted this allegation. He added that he had no documentation, but stated that he would contact this creditor to arrange a settlement. (SOR Answer)

During his hearing, Applicant provided documentation that he set up a 12-month payment plan with this creditor with the first payment of \$105 due on October 12, 2021 (day of hearing). Applicant claimed that he made his first payment, but did not have proof of payment. (Tr. 45-46; AE C) **DEBT BEING RESOLVED.**

**SOR ¶ 1.j – Collection cable company account in the amount of \$541.** In his SOR Answer, Applicant admitted this allegation. He added that this “account should be current” because he returned the cable box to the company. He stated that he provided a copy of the receipt of return to the OPM investigator during his interview. (SOR Answer)

During his hearing, Applicant stated that he called the cable company on a date not certain and “talked to somebody,” and was informed that they did not have an account with him. Applicant stated that he returned the cable box to the cable company, was provided a receipt of return, and provided that receipt to the OPM investigator. However, the receipt was not included or attached to the OPM PSI. This debt does not appear on Applicant’s recent credit report. (Tr. 46-48) **DEBT RESOLVED.**

**SOR ¶ 1.k – Collection property management company account in the amount for \$300.** In his SOR Answer, Applicant admitted this allegation. He added that this account does not appear on his credit report, that he believed that it was paid off, and that he would follow up with documentation. (SOR Answer)

During his hearing, Applicant provided documentation that he paid this debt in full on March 5, 2019. He stated this debt was for apartment cleaning fees dating back to 2014. (Tr. 48-49; AE E) **DEBT RESOLVED.**

**SOR ¶ 1.l – Collection automobile insurance account in the amount of \$222.** In his SOR Answer, Applicant admitted this allegation. He added that his credit report showed this account as “closed and paid.” (SOR Answer)

During his hearing, Applicant stated that he settled this account for \$111. According to his June 2021 credit report, he paid this account in March 2019, and he provided documentation from the creditor stating, “Account Paid.” (Tr. 49-50; GE 3) **DEBT RESOLVED.**

**SOR ¶ 1.m– Failed to file his Federal income returns for tax years 2012, 2013, 2014, 2015, 2016, 2017, and 2018.** In his SOR Answer, Applicant admitted this allegation. He added that the “IRS has been in contact and has advised they would auto file for years not filed.” (SOR Answer)

During his hearing, Applicant stated that he has been in contact with a tax attorney, but that nothing had been done to address his Federal income tax filing issue. He stated that the IRS contacted him last year and informed him that if he did not file his returns within 30 days, they would “auto-file them for [him].” Applicant stated that the IRS has not corresponded with him since then nor have his returns been auto-filed. He understands that he is supposed to file his Federal income tax returns. Applicant

acknowledged that he has not filed his income tax returns since 2012. He believes that he owes the IRS money “for a couple of years.” Applicant has been self-employed as a realtor since 2014, and the brokers he worked for provided him with Form 1099s. (Tr. 50-53) **ALLEGATION NOT RESOLVED.**

SOR ¶ 1.n – **Failed to file his state income tax returns for tax years 2012, 2013, 2014, 2015, 2017, and 2018.** In his SOR Answer, Applicant admitted this allegation. He added that his state taxes for “years missing and in conjunction with (o.) have been paid down and payment plan is being established.” (SOR Answer)

During his hearing, Applicant also acknowledged that he had not filed his state income tax returns since 2012. (Tr. 53) **ALLEGATION NOT RESOLVED.**

SOR ¶ 1.o – **Indebted to his state tax authority following a 2017 tax lien entered against him in the amount of \$20,094.** In his SOR Answer, Applicant referred to his answer to SOR ¶ 1.n. (SOR Answer)

During his hearing, Applicant submitted documentation dated July 21, 2021 from his state tax authority that the amount of his 2017 tax lien had increased to \$23,212. He also submitted an unexecuted installment agreement with his state tax authority indicating that that he would begin making \$400 monthly payments beginning on October 12, 2021 (date of hearing). Applicant also stated that he spoke to a state tax authority representative, who advised him, “[d]on’t worry about anything before 2016 and then just make the payments of 400 (dollars) a month.” (Tr. 53-55; AE F, AE G) **ALLEGATION NOT RESOLVED.**

Applicant was alerted to the Government’s concerns regarding his failure to file his Federal and state income tax returns and delinquent debts during his February 5, 2019 OPM PSI. Applicant stated during that interview that he would be working on finding the best solutions on how to take care of his Federal and state tax situation in the near future. To do so, he planned to find an accountant to help him resolve this in the best way possible. (GE 2) With regard to his other debts, he stated that he planned to pull his credit report to ascertain further information about his delinquent accounts and pay or resolve them in the near future. (GE 2) Applicant was also alerted to the Government’s concern regarding his failure to file his Federal and state tax income tax returns when he completed his DOHA Interrogatories on December 22, 2020, and received his February 11, 2021 SOR. (Tr. 56-57)

Applicant has not sought financial counseling, but believed, “it would be a good thing to do.” (Tr. 55-56) Applicant’s cohabitant with whom he shares expenses earns “[a]round \$50,000 a year.” Applicant earns approximately \$80,000 a year. His take home pay after child support is deducted is between \$1,700 and \$2,100 a month. His monthly rent for a three-bedroom home is \$2,650. He does not have a savings account and had “nothing” in his checking account. After he pays all of his monthly bills, his monthly remainder is, “not much” or “very little.” (Tr. 25-26, 57-59)

## Policies

This case is adjudicated 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 adjudicative guidelines (AG), which became effective on June 8, 2017.

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 to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing 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 national security eligibility will be resolved in favor of the national security."

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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable clearance 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.(might try closing up next paragraph to here to fit the page break at end)

Section 7 of EO 10865 provides that adverse 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**

### **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. 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.

AG ¶ 19 includes three disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts;” “(c) a history of not meeting financial obligations;” and “(f) failure to file 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 the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f). Further inquiry is necessary about the potential application of any mitigation conditions.

The financial considerations mitigating conditions under AG ¶ 20 are as follows:

(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.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board 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 [full cite here] *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)*.

Applicant's conduct does not warrant full application of AG ¶ 20(a) because there is more than one delinquent debt and his financial problems are not isolated. His debt remains a "continuing course of conduct" under the Appeal Board's jurisprudence. *See*

ISCR Case No. 07-11814 at 3 (App. Bd. Aug. 29, 2008) (citing ISCR Case No. 01-03695 (App. Bd. Oct. 16, 2002)).

AG ¶ 20(b) is partially applicable to the SOR allegations and ¶ 20(d) is partially applicable as it pertains to delinquent debts alleged under SOR ¶¶ 1.a, 1.c, 1.d, and 1.i through 1.l. His 2013 divorce no doubt played a role in Applicant's ability to remain current on his established obligations at that time. However, Applicant does not receive full credit under either of these two mitigating conditions because of his failure to act responsibly under the circumstances and the time elapsed before addressing the debts that he eventually did take action on. AG ¶ 20(g) is not applicable because Applicant did not provide documentation that he is in compliance with his state tax authority payment agreement. AG ¶¶ 20(e) and 20(f) are not applicable.

Of greater concern is the fact that Applicant did not timely file his Federal and state income tax returns from 2012 to 2018. Applicant was alerted to the fact that his failure to file these returns was a concern to the Government during his February 2019 OPM PSI, when he submitted his December 2020 DOHA Interrogatories, and later when he received his February 2021 SOR. These events apparently did not prompt Applicant to recognize the seriousness of his situation and take immediate corrective action. As of his hearing date, he had not filed Federal and state income tax returns since 2012, and only set up a payment plan to pay his state tax lien on the day of his hearing.

Failure to file his Federal and state income tax returns shows a significant lapse in judgment that cannot be overlooked, especially from an individual whose Federal income is derived from tax dollars. The evidence demonstrates that Applicant did not act responsibly with regard to timely filing his Federal and state income tax returns and paying or making payment arrangements in a timely manner for state taxes owed until the day of his hearing.

In regard to the failure to timely file Federal income tax returns when due, the DOHA Appeal Board has commented in ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016):

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). (emphasis in original)

See ISCR Case No. 15-01031 at 4 (App. Bd. June 15, 2016) (citations omitted); 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). Applying the Appeal Board's jurisprudence to Applicant's conduct and circumstances, financial considerations security concerns are not mitigated.

### **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.

The ultimate determination of whether to grant or continue national security eligibility must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. AG ¶ 2(c). The discussion in the Analysis section under Guideline F is incorporated in this whole-person section. However, further comments are warranted.

To review, Applicant is a 37-year-old logistics manager, who has been employed by a defense contractor since September 2018. He honorably served nine years as an active-duty Marine and later worked as a civilian employee in support of the defense industry. He has successfully held a clearance while in the Marine Corps and during his employment as a defense contractor. He seeks to retain his security clearance as a requirement of his continued employment. Applicant is in a relationship with a cohabitant and is responsible for supporting five children. He has all the indicators of an individual with significant potential.

However, for at least nine years, he has failed to grasp the importance of one of the fundamental hallmarks of U.S. citizenship, which is the timely filing of his Federal and state income tax returns and paying taxes when due. This is especially crucial for an individual seeking to retain a security clearance and working for a defense contractor advancing the national security of the United States. From the evidence presented, despite being made aware that the timely filing of his Federal and state income tax returns was a security concern, Applicant failed to comply with this basic and

fundamental civic obligation. He is a bright and talented individual, who is more than capable of addressing his income tax problems in a responsible way. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards establishing a track record of financial responsibility, and a better track record of behavior consistent with his obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my careful consideration of the whole-person factors and supporting evidence, my application of the pertinent factors under the adjudicative process, and my interpretation of my responsibilities under the adjudicative guidelines.

### **Formal Findings**

The formal findings on the allegations set forth in the SOR are as follows:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraphs 1.c – 1.d:	For Applicant
Subparagraphs 1.e – 1.h:	Against Applicant
Subparagraphs 1.i – 1.l:	For Applicant
Subparagraphs 1.m – 1.o:	Against Applicant

### **Conclusion**

In light of the record as a whole, it is not clearly consistent with the national interest to grant Applicant's security clearance. National security eligibility is denied.

ROBERT TUIDER  
Administrative Judge