



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



In the matter of: )  
)  
) ISCR Case No. 22-00600  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Dan O'Reilly, Esq., Department Counsel  
For Applicant: *Pro se*

08/18/2023

**Decision**

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On January 29, 2020, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On May 26, 2022, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; 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 DCSA 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. (HE 2) On

June 14, 2022, Applicant provided a response to the SOR, and he requested a hearing. (HE 3)

On September 12, 2022, Department Counsel was ready to proceed. On April 12, 2023, the case was assigned to me. On April 20, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice setting the hearing for June 26, 2023. (HE 1) The hearing was held as scheduled using the Microsoft Teams video teleconference system. (*Id.*)

During the hearing, Department Counsel offered 11 exhibits into evidence, and Applicant did not offer any documents into evidence. (Tr. 14, 18-22; GE 1-GE 11) All proffered exhibits were admitted into evidence without objection. (Tr. 22; GE 1-GE 11) On July 7, 2023, DOHA received a copy of the transcript. Applicant provided three post-hearing exhibits, which were admitted into evidence without objection. (Applicant Exhibit (AE) A-AE C) The record closed on July 28, 2023. (Tr. 58, 62; HE 5)

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 SOR allegations. He also provided mitigating information. (*Id.*) His admissions are accepted as findings of fact.

Applicant is a 39-year-old investigator who has worked for his current employer since September 2018. (Tr. 6, 11-12) In 2002, he graduated from high school (Tr. 7) He served in the Air Force from August 7, 2007, to January 18, 2013. (Tr. 7) He was a senior airman (E-4) when he received an honorable discharge from the Air Force. (Tr. 7-8) His Air Force specialty was special duty assigned to the honor guard. (Tr. 8) He was discharged because he was injured and unable to run. (Tr. 9) His Department of Veterans Affairs (VA) disability rating was increased from 40 percent to 60 percent in August or September 2022. (Tr. 60) He receives \$1,600 monthly from the VA. (Tr. 55) His gross income is about \$69,000, which is near the national average. (Tr. 56)

In 2006, Applicant married. (Tr. 10) He believes he was divorced in 2023; however, he is unsure whether his divorce is final because his spouse filed for divorce online. (Tr. 10) His 16-year-old daughter and his 19-year-old stepdaughter live with him. (Tr. 11, 38)

### **Financial Considerations**

Applicant said his delinquent debts resulted from his spouse's temporary disability, which resulted in a reduction in her pay by 50 percent, which was followed by the loss of her employment in late 2017 or early 2018. (Tr. 32; SOR response) Applicant and his spouse fell behind on some debts while she was on partial disability. (Tr. 32-33) She was unemployed for a few months, and then she found employment at about 25 percent less than her previous pay. (*Id.*) She sued her former employer and in September 2018, she

received an \$18,000 settlement, which she used to resolve some of her debts and to purchase a vehicle. (Tr. 34) In 2018, Applicant was being paid \$18 an hour. (Tr. 37)

Applicant received financial counseling as part of the bankruptcy process. He also took some financial classes. (Tr. 55)

The SOR alleges the following financial concerns:

SOR ¶ 1.a alleges a bank filed a judgment in September 2021 against Applicant for about \$14,819. The debt resulted from a car loan which Applicant's spouse obtained to purchase a new vehicle in 2017. (Tr. 32; SOR response) The monthly payment was \$400. (Tr. 32) The judgment amount after costs and fees totals about \$18,000. (AE A)

SOR ¶ 1.b alleges Applicant has a charged-off debt for about \$10,518. The debt resulted from a car loan which Applicant obtained in 2017 to purchase a new sports car. (Tr. 30-31, 53-54; SOR response) The monthly payment was \$780. (Tr. 31) He characterized the purchase of the sports car as a "stupid" decision; however, he learned from it and purchased an inexpensive used vehicle as a replacement after the sports car was repossessed. (Tr. 53)

SOR ¶ 1.c alleges Applicant has a charged-off debt for about \$10,413. He obtained a \$10,000 personal loan. (Tr. 39) He paid about \$4,000 in interest; however, in the summer of 2018, he stopped making payments. (Tr. 40)

SOR ¶ 1.d alleges a judgment originating from a bank was filed against Applicant in February 2020 for about \$1,186. He used the funds from the bank loan for daily living expenses. (Tr. 41) Applicant said after the creditor obtained the judgment, he was pretty sure he made some payments. (Tr. 41-44) However, he did not provide documentary evidence showing any payments.

SOR ¶¶ 1.e and 1.f allege Applicant has two charged-off debts owed to the same bank for about \$899 and \$650. He did not make any payments to address these debts. (Tr. 45)

SOR ¶ 1.g alleges Applicant has a charged-off store debt for \$475. He did not make any payments to address this debt. (Tr. 45)

SOR ¶ 1.h alleges Applicant filed for Chapter 7 bankruptcy in March 2016, and his nonpriority unsecured debts were discharged in about June 2016. Applicant was unemployed from July 2015 to January 2016, and his spouse was not employed outside their home. (Tr. 23-24) They moved to a different state, which enabled his spouse to find employment in December 2015. (Tr. 23-24) His spouse's annual pay at her new employment in January 2016 was about \$30,000. (Tr. 25) When he went to a bankruptcy attorney, his attorney told him to stop paying his creditors. (Tr. 29) The debts discharged through this bankruptcy totaled about \$93,000, and it consisted mostly of car loans for repossessed vehicles (unrelated to SOR ¶¶ 1.a and 1.b) and credit card debts. (Tr. 25-26)

SOR ¶ 1.i alleges Applicant's wages were garnished by a state tax authority for about \$5,585. Applicant's spouse prepared their tax returns. (Tr. 28) When Applicant moved to a new state, he was surprised when he received a bill for a car tax. (Tr. 27) He believed his spouse may have paid a car tax bill instead of a state income tax bill. (Tr. 27) He said the state tax debt will be paid. (Tr. 57) In his Office of Personnel Management (OPM) interview, he said his state income tax debt was for TYs 2016, 2017, and 2018. (GE 2 at 2) The original balance was \$8,000 to \$10,000. (*Id.*) He owes a state tax authority about \$200 for TY 2022. (Tr. 56) On July 27, 2023, he made a \$50 payment to the state tax authority. (AE B) After his hearing, he said he paid his state tax debt. (AE B; AE C)

After Applicant separated from his spouse, he saved about \$2,000, and he intended to pay some of his SOR creditors; however, his spouse lost her employment, and he decided to help her financially instead of paying his creditors. (Tr. 45) Once she obtained employment, he believed she would pay him back. (Tr. 46)

Applicant's current pay is \$25 an hour. (Tr. 46) He said a creditor has been garnishing \$500 monthly from his pay since November 2022; however, Applicant said he does not know which creditor is garnishing his pay. (Tr. 46-47)

After his spouse received her settlement of about \$18,000 in tax year (TY) 2018, they owed additional federal income taxes. (Tr. 47) He contacted the Internal Revenue Service (IRS) and established a payment plan in which he paid \$500 monthly for about one year. (Tr. 50) When he filed his federal income tax return for TY 2022, he owed the IRS about \$2,000 for that tax year. (Tr. 47) He currently owes the IRS a total of about \$12,000 to \$15,000. (Tr. 48) The IRS has transferred any refunds to address his delinquent tax debt. (Tr. 51)

In Applicant's January 29, 2020 SCA, he said he owed an estimated \$3,700 in state income taxes; the status was "current"; and the debt "will be paid off by the end of the year." (GE 1 at 49) He said, "I have payment arrangement for my federal taxes because I could not afford to pay in full. I thought the arrangement included state taxes but it did not. . . . [He] agreed to a \$200 garnishment [from] every paycheck." (*Id.*)

I requested Applicant provide copies of his federal income tax transcripts for the previous five years and proof that his state income tax returns were paid. (Tr. 57-58) I also asked for proof of any payments to any other SOR creditors. (Tr. 59) The only proof of payment provided after his hearing was documentation showing a \$50 payment to the state tax authority, and no tax returns or tax transcripts were provided. (AE B)

In his closing written statement Applicant said:

. . . I feel that most people in my position would probably file for bankruptcy, but I do not want to take that route again. I know it takes longer to come back from, but I would rather save and pay back my debts than take the easy route. Currently the garnishment that is being taken from my check is paying off [the debt in SOR ¶ 1.a] at a rate of \$1000 a month to a balance of \$13517.28 based off an email that was sent to my work email 11/22. I am

unable to send any email with an attachment to an outside email account. \$8000 has been paid toward the debt and will be paid off in the next about five and a half months. Once this account is paid off, I will continue to use the \$1000 that has been taken out to continue to pay off all my debt. My [state] taxes have been paid, attached is the final amount that was sent to collections and paid. [AE B] This is the first opportunity that I have really had to pay off my debts since divorcing my wife. Even though many of the accounts were joint, I have been the one affected, my wife has never been garnished or paid towards any of our joint debt. As I have mentioned my clearance affects my job and my potential future. I plan on going back to school to finish my degree in cyber security and having a clearance is paramount to my degree. I am trying to better my situation and make more money so that I can pay off my debts. I have no other negative infraction against me other than my debts. I have had some bad luck as far as my wife losing her job and relying on one income, I will admit that I overreached in my [vehicle] purchase [related to SOR ¶ 1.b]. I have learned from that mistake as I mentioned and now have a much more affordable car payment that will be paid off within the next year. I pay my bills on time and live within my means. It was my mistake to let my ex-wife control our finances as I have much better control over it. If I am given the opportunity to hold my clearance by the time my next investigation is due[,] I will be completely debt free. I have learned from the past and will continue to strive to better [my own] and my kid's situation. . . . [AE C]

## Policies

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

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and

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

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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

## **Analysis**

### **Financial Considerations**

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. 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 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."

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). The record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f) requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

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 *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 provided some important mitigating information. He and his spouse were unemployed or underemployed or both. He and his spouse moved to a different state. His spouse was injured and on disability. He was separated and then divorced from his spouse. These circumstances were partially or fully beyond their control and adversely affected his finances. He did not provide sufficient details to assess the magnitude of the adverse effect on his overall finances or his efforts to make progress resolving the delinquent accounts. "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the judge could still consider whether applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)).



Another component under AG ¶ 20(b) is whether Applicant maintained contact with creditors and attempted to negotiate partial payments to keep debts current. He did not prove that he maintained contact with the SOR creditors over the years or that he worked diligently to timely pay his debts.

SOR ¶ 1.h alleges Applicant filed for Chapter 7 bankruptcy in March 2016, and his nonpriority unsecured debts were discharged in about June 2016. He was unemployed from July 2015 to January 2016, and his spouse was not employed outside their home. They moved to a different state, which enabled his spouse to find employment in December 2015. His spouse's annual pay was about \$30,000. When he went to a bankruptcy attorney, his attorney told him to stop paying his creditors. The debts discharged through the bankruptcy totaled about \$93,000, and they consisted mostly of car loans for repossessed vehicles and credit card debts. Bankruptcy is a legally authorized means for resolving debt. AG ¶ 20(b) applies to this bankruptcy, and SOR ¶ 1.h is mitigated.

SOR ¶ 1.i alleges Applicant's wages were garnished by a state tax authority for about \$5,585. His spouse prepared their tax returns. He said the state tax debt was paid through a voluntary garnishment of his income, and he made the final payment of \$50 in July 2023. This debt is resolved.

The SOR does not allege that Applicant has owed federal income taxes since 2019 because his spouse received a settlement in 2018, and federal income taxes were not withheld from the settlement. He described his federal income tax debt during his OPM interview. He owes the IRS about \$2,000 for TY 2022. He did not provide any correspondence from the IRS or IRS tax transcripts showing his federal income tax debt was or is in an established payment plan. 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)). The non-SOR allegation will not be considered except for the five purposes listed above.

Most of Applicant's SOR debts are charged off or eventually will not appear on his credit report or both. "[T]hat some debts have dropped off his credit report is not meaningful evidence of debt resolution." ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016) (citing ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015)). The Fair Credit Reporting Act requires removal of most negative financial items from a credit report seven

years from the first date of delinquency or the debt becoming collection barred because of a state statute of limitations, whichever is longer. See Title 15 U.S.C. § 1681c. Debts may be dropped from a credit report upon dispute when creditors believe the debt is not going to be paid, a creditor fails to timely respond to a credit reporting company's request for information, or when the debt has been charged off.

Applicant has owed delinquent taxes since about 2019. He said he intends to pay his taxes at this point; however, 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 pay federal income taxes when due. See ISCR Case No. 15-01031 at 3 & n.3 (App. Bd. June 15, 2016) (characterizing “no harm, no foul” approach to an applicant’s course of conduct and employing an “all’s well that ends well” analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

Applicant received financial counseling with his bankruptcy, and he took some financial classes. Applying the Appeal Board’s jurisprudence, he did not prove that he was unable to make greater progress sooner by establishing payment plans with more of his SOR creditors, including the IRS. Three SOR debts are less than \$1,000 each. He did not provide any documentation showing his attempts to address these three debts. Under all the circumstances, he 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 common-sense 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 39-year-old investigator who has worked for his current employer since September 2018. He served in the Air Force from August 7, 2007, to January 18, 2013. He was a senior airman when he received an honorable discharge from the Air Force. He received a 60 percent disability rating from the VA, which results in a \$1,600 monthly payment from the VA. His VA disability rating was increased from 40 percent to 60 percent in August or September 2022. His gross income is about \$69,000, which is near the national average.

Applicant provided important financial considerations mitigating information. He provided multiple reasons for his financial difficulties. He acted reasonably when he filed for bankruptcy in March 2016 and when he agreed to a voluntary garnishment of his pay to address his state income tax debt. He has provided contributions to his employer and the national defense.

The evidence against grant of a security clearance is detailed in the financial considerations section, *supra*, and this evidence is more substantial at this time than the evidence of mitigation. Applicant did not establish that he was unable to make greater progress sooner resolving his delinquent debts. He did not take sufficient actions to provide documented evidence of his actions to address his federal income tax debt. His failure to take prudent, responsible, good-faith actions raise unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No.12-00270 at 3 (App. Bd. Jan. 17, 2014)).

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 establishment of a track record of timely paying his debts, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

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. Applicant failed to mitigate financial considerations security concerns.

## 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.g:	Against Applicant
Subparagraphs 1.h and 1.i:	For Applicant

## Conclusion

I conclude that it is not clearly consistent with the interests of national security of the United States to grant or continue Applicant's national security eligibility for access to classified information. Eligibility for access to classified information is denied.

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Mark Harvey  
Administrative Judge