



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



In the matter of:)
)
) ISCR Case No. 22-01745
)
Applicant for Security Clearance)

Appearances

For Government: Jenny G. Bayer, Esq., Department Counsel
For Applicant: *Pro se*

02/12/2025

Decision

LAFAYE, Gatha, Administrative Judge:

Applicant failed to provide sufficient evidence to mitigate security concerns raised under Guideline F (financial considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on September 15, 2021. On November 18, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F. The DOD acted 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) effective within the DOD on June 8, 2017.

Applicant answered the SOR on November 23, 2022, and requested a hearing before an administrative judge. On February 12, 2024, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that his hearing was scheduled to be conducted by video teleconference on March 19, 2024. The hearing was convened as scheduled.

On March 6, 2024, prior to the hearing, Department Counsel amended the SOR to add SOR ¶ 1.k. Applicant did not respond to the SOR amendment prior to the hearing, but acknowledged receipt of the new allegation and expressed his desire to proceed with the hearing as scheduled. (Tr. 7, 103-110)

At the March 19, 2024 hearing, Department Counsel offered Government Exhibit (GE) 1 through GE 9, which were admitted in evidence without objection. Applicant offered documentary evidence, which I labeled as Applicant Exhibits (AE) A and AE B and admitted in evidence without objection. Prior to the close of the hearing, Applicant disclosed new federal income tax issues, which raised additional financial considerations security concerns and required a second amendment to the SOR. I continued the hearing until a later date to allow the parties time to prepare to address the new allegations.

On March 20, 2024, Department Counsel offered to amend the SOR a second time to conform to the evidence, adding SOR ¶¶ 1.l through 1.n, which I accepted. Applicant answered the second amendment to the SOR on May 17, 2024, and edited his answer prior to the start of the hearing scheduled for June 6, 2024. I reconvened the hearing as scheduled. Applicant offered additional documentary evidence at the hearing, which I labeled as AE C through AE G, and admitted in evidence without objection. DOHA received the first hearing transcript (Tr.) on March 29, 2024, and the second hearing transcript (Tr2.) on June 20, 2024.

Findings of Fact

In Applicant's answer to the SOR, he admitted allegations in SOR ¶¶ 1.a, 1.b, 1.f, 1.h., and 1.j, and denied allegations in SOR ¶¶ 1.c – 1.e, 1.g, and 1.i. He answered security concerns alleged in the amended SOR during both hearings, and admitted SOR ¶¶ 1.k through 1.n. Applicant's admissions are incorporated in my findings of fact. After careful review of the evidence, I make the following additional findings of fact.

Applicant is 62 years old. He earned his high school diploma in 1980. Shortly after graduation, he enlisted in the Navy, and served as an electronics technician from July 1980 until his honorable discharge in August 1985. He attended college for about two years, but did not complete his degree. Applicant was first married from 1989 to 2002. He married a second time in 2004, and has two children, ages 32 and 17. His youngest child resides with him and his wife. (GE 1; Tr. 25-26)

Applicant is an established businessman and entrepreneur who successfully developed and sold technical companies doing classified work. In 2003, he and his wife started a high-tech company, developed it for about five years, and sold it to a private equity firm in 2009, earning about \$3 million in profit. In late 2009, he started another technical company, developed it for about four years, and sold it to a defense contractor in 2014. He said he stayed on and worked for the defense contractor as vice president and consultant from 2014 through September 2019. He earned about \$200,000 per year working for the defense contractor. After deductions, his net income totaled about \$8,000 monthly. (GE 1; Tr. 13-14,41-42)

In 2014, Applicant and his wife started three small businesses styling and cutting hair (hair salons), in which neither he nor his wife had experience. The three businesses (S1, S2, and S3) were independent, separately managed, distinct entities established in three different states. (Tr. 13-15, AE A) The first business (S1) was established as an equity-based business where licensed hair stylists would rent booths and pay a monthly fee for the rental. It was not making a profit, but it was steady and operated at margin. (Tr. 53-54) The second business (S2), developed as an employee-based business with eight employees, was the most successful, making profits of up to \$800,000 per year. The third business (S3), was the largest. It had about 26 employees and provided haircare services to both men and women, but was never profitable. (Tr. 53-54)

Applicant and his wife used proceeds from the sale of prior businesses, their personal savings, and personal and business credit cards to finance and operate the three hair salons. In 2019, they decided to wind down the businesses, closing all three due to significant business and personal financial losses. Applicant said that he and his wife filed bankruptcy under Chapter 11 for S2 and S3 (Tr. 63, 68-69) He also filed for personal bankruptcy under Chapter 13 in 2019, discussed in SOR ¶ 1.a below; and his wife filed for personal bankruptcy under Chapter 13 one year before his action. (Tr. 63-70) Chapter 11 bankruptcy records for the businesses were not offered in evidence. Applicant said he used profits from S2 to help keep S1 and S3 afloat, and that his wife primarily operated the businesses but did not take a salary. (Tr. 52-55)

From October 2019 through January 2021, Applicant worked as a vice president for a private company, earning about \$175,000 per year, with a net pay of about \$7,000 per month. In February 2021, he accepted a new position working as a business development consultant for a defense contractor, his current employer and security clearance sponsor. (Tr. 47-48) His annual gross pay in 2023 was \$255,599, with a net pay of about \$10,000 per month. The company also incentivizes his pay, adding potential bonus amounts up to 20 percent of his base pay, about \$10,000 to \$46,000 annually. His wife's annual gross pay in 2023 was \$159,186, with a net pay of about \$7,000 per month. (AE A 4-5; Tr. 38-42, 48-50)

Applicant and his wife still own their home valued at about \$1.3 million. They previously owned a vacation property, a condominium located in another state, which they purchased with cash in 2010. Applicant also previously owned a half-interest in a rental property he purchased with a joint investor in 2006. The property was consistently "underwater," the joint investor "walked away" from the investment, Applicant was unable to sell it, and the bank would not approve it for short sale or foreclosure. For about 10 years, he rented the property for nearly a 50% discount before he was able to dispose of it through a short sale transfer in December 2023. (Tr. 27, 30-32, 42-46; AE A 8-11)

Applicant completed his SCA in September 2021. In Section 26, Financial Record, he disclosed he filed for Chapter 13 bankruptcy in 2019. He also disclosed he owed \$54,043 to the federal government for failure to pay employee withholding taxes, for his "wife's" businesses. (GE 1) He claimed to be "current, not delinquent" on payments, and that he pays "\$1,500 monthly" directly to the Internal Revenue Service (IRS). (GE 9)

Applicant also disclosed delinquent debts involving routine accounts, and discussed them in his October and November 2021 background interviews. He did not disclose any other income tax issues. He said his overall financial situation was sound, and that he was current on all bills. (GE 1, 9) During the hearing, he attributed his overall financial situation to the failure of his businesses, and poor economic conditions due to the COVID-19 pandemic. (Tr. 14-16, 58; Tr2. 39)

The SOR, as amended, alleged 14 financial allegations, including a bankruptcy action, delinquent debts totaling over \$1.1 million, failure to file income tax returns, and delinquent taxes for unpaid employee tax withholdings. (SOR Answer; GE 1-9)

The evidence regarding the SOR allegations is summarized below:

SOR ¶ 1.a (Chapter 13 bankruptcy filed Feb. 2019): Applicant filed a Chapter 13 bankruptcy petition in February 2019. In the petition, he claimed he had up to 49 creditors, assets totaling up to \$50,000, and liabilities totaling between \$1 million and \$10 million. His income at the time exceeded \$17,700 monthly. (GE 6) The bankruptcy trustee moved to dismiss the case with prejudice because Applicant did not disclose his condominium. His wife had previously disclosed their condominium in her bankruptcy petition, which resulted in her case being dismissed on jurisdictional grounds for exceeding the secured debt limit. Applicant did not disclose the condominium because he believed he no longer had an ownership interest due to the creditor's confiscation of the asset. Applicant's case was later dismissed, without prejudice, for exceeding the secured debt limit. (GE 1; Tr. 64-69)

SOR ¶ 1.b (\$33,403 charged off): Applicant admitted this credit card debt on an account opened in August 2012. The creditor closed the account in November 2017, and the last payment was made in January 2018. Applicant said he used this personal credit card for business-related expenses. He has remained in communication with the creditor, who offered to settle the account for a \$10,000 lump-sum payment. He is still in communication with them, but has not paid on the account since January 2018. (GE 2-4; Tr. 69-72; AE A 3,8-11, AE D)

SOR ¶¶ 1.c (\$16,449 charged off), and 1.e (\$11,124 charged off): In his answer, Applicant denied both debts from the same creditor, stating the accounts are current based on payment arrangements made with the creditor. SOR ¶ 1.c, opened in August 1992, was charged off in late 2021. SOR ¶ 1.e, opened in December 2016, was also charged off in late 2021. Applicant has paid \$50 per month on each account since he established payment arrangements with the creditor in August 2020. He provided proof he is current on payments for both accounts. (GE 2-4; Tr. 72-78, 81-83; AE A at 3, AE C)

SOR ¶ 1.d (\$15,094 charged off): In his answer, Applicant denied this individual account opened in April 2015, stating the total debt charged off was "incorrect." The account was charged off for \$15,094, and the last payment was made in January 2019. Applicant said this was opened as a business account not an individual account, that he stopped paying when the business failed, and that he had no intention of paying the debt.

He said he recently challenged the debt, and that the creditor removed it from his credit report. However, no documentary evidence was provided to support these assertions and the debt appears in a March 2024 credit bureau report (CBR). (GE 2-4; Tr. 79-81)

SOR ¶ 1.f (\$6,678 charged off): Applicant admitted this debt on an individual credit card account opened in October 2016. The first major delinquency occurred August 2019, and it was charged off in February 2020. Applicant said he used this personal account for business expenses. He has not made payment arrangements or payments, but intends to pay the debt in the future. (GE 2-4; Tr. 83-85)

SOR ¶ 1.g (\$719 collection account): Applicant denied this debt, an individual consumer account opened in May 2021. He said he returned the cable equipment for the condominium, but the company said he did not. He disputed this through a credit bureau, and the account was removed from his CBR. Though a dispute of the debt is not indicated in the 2021 or 2022 CBRs, this debt does not appear in 2024 CBR. (GE 2-4; Tr. 85-89)

SOR ¶ 1.h (\$28,335 past due of \$58,879 total debt): Applicant admitted this debt, an individual home equity line of credit on his rental property opened in September 2006. The March 2024 CBR reported that Applicant last paid the debt in January 2018, and the debt was charged off for \$62,828 in November 2023. (GE 2 at 7) The rental property was foreclosed and sold in a short sale finalized in December 2023. It reflected a deficient balance. (AE A 8-11)

Applicant said this debt was “disposed of in short sale/foreclosure,” and that he did not owe “any remaining amounts on this loan.” He said he never received a request for payment from this creditor, and the account was no longer accessible after the short sale in December 2023. (GE 2-4; Tr. 89-92; AE A at 3) As evidence he no longer owed the debt, he submitted form 1099-A, which was completed by the creditor and reported to the IRS. On the form, the creditor checked box 5, which reads: “If checked, the borrower was personally liable for repayment of the debt.” (AE D)

SOR ¶ 1.i (\$186,455 charged off): Applicant admitted this debt, an individual account opened in September 2015, and charged off for \$186,455 in 2019. He said it is a home equity loan on his primary residence. In August 2020, he made payment arrangements with the creditor, paying \$500 per month. He submitted proof of their arrangements and his compliance with the agreed terms. (GE 3, 4; Tr. 92-99; AE C)

SOR ¶ 1.j (\$45,986 past due of \$250,200 total debt): Applicant admitted this individual mortgage debt on his rental property opened in October 2013. In October 2021, the debt was reported 120 days past due, for \$45,986. The last payment occurred in March 2021. (GE 4 at 6) Applicant submitted evidence the rental property was foreclosed in November 2023, and reflected a deficiency balance of \$23,262. He said he did not receive a request to pay the deficit balance, and the balance on the account is reflected as zero in the 2024 CBR and AE G. (GE 2 at 8; Tr. 99-102; AE G)

SOR ¶ 1.k (\$553,726 charged off): Applicant admitted this debt, a joint loan he and his wife received in November 2015, backed by the Small Business Administration (SBA), for the benefit of their 2014 startup businesses, S1, S2, and S3. All three businesses were shuttered in 2019. S2 and S3 were closed via Chapter 11 bankruptcy. (Tr. 68-69)

Applicant's last payment on this SBA-backed loan occurred in November 2019. (GE 2 at 7) The SBA creditor sold assets and collaterals of the businesses to mitigate the financial loss and presented the remaining balance to Applicant for payment. Applicant said he was unable to pay the \$500,000 remaining balance, or the monthly installment amount offered by the creditor, and that no further negotiations were allowed. He said he disputed the final amount charged for the loan because he did not believe he was fully credited for collaterals sold against the loan, but did not present proof to substantiate the basis of any dispute. Applicant did not make any payments on the loan from December 2019 through November 2022. (GE 2; Tr. 103-111; AE B; Tr2. at 28)

The creditor charged off the debt, activated the SBA guarantee, and turned over the defaulted loan to SBA for collection. SBA exercised its right to collect Applicant's nontax debt in default by wage garnishment through the U.S. Treasury. The garnishment set his payments at 15% of net pay, and started in December 2022. The amount garnished per month was "blacked-out" on Applicant's wage garnishment worksheet. (AE B at 4) The total amount garnished for the first 12 months was \$28,110. (AE B at 7) The amount garnished from January to March 2024 was \$8,214. He said his wages are subject to garnishment for 10 years from the "demand" of payment, not 10 years after garnishment starts, from about 2021. (Tr. at 111) Any balance remaining after that time is uncollectable. (GE 2; Tr. 103-111; AE B; Tr2. 28) It is unclear whether the SBA will be able to collect the loan should Applicant leave his wage-earning (W2) position. Moreover, considering the amounts being collected, the total amount collected would be less than 65% of the obligation.

SOR ¶ 1.l (failed to pay the IRS \$54,000 for employee tax withholdings): Applicant disclosed these unpaid taxes in his SCA, and admitted at the hearing that he and his wife owed this debt. (GE 1; Tr2. at 15) He said the IRS informed them that they failed to report and pay employee withholding taxes for the S2 business. (Tr. 119) He said his wife was the chief executive officer of S2, and he was a managing member helping to manage payroll, and other operations. (Tr. 122) Applicant did not offer or submit S2 business records related to this matter. He said their financial obligations to the business were joint, the SBA loan account was joint, and they filed joint income tax returns. He said the debt came to his wife, she pays \$1,500 monthly, and her payment goes directly to the IRS. (Tr. 115,119-129; Tr2. 15-18) He submitted documents downloaded from the IRS website, which indicated payments of \$1,500 were being made towards tax indebtedness. (AE F) However, the documents lacked specificity, and were insufficient to show payments are being made to satisfy this tax. (AE F)

SOR ¶¶ 1.m and 1.n (failed to timely file 2020, 2021, 2022 federal tax returns):

Applicant admitted he failed to timely file federal income taxes for at least tax years 2020, 2021, and 2022. He said he filed his 2018 income tax returns in 2020, and his 2019 income tax returns in 2021. He also said he filed his 2020 income tax returns in “late 2022.” (Tr. 125-127) However, during the second hearing, he claimed he filed his 2020, 2021, and 2022 income tax returns – all three, in May 2024, just before his second hearing. (Tr2. 22-31; AE E)

Applicant said a certified public accountant (CPA) prepared joint income tax returns on their behalf for 15 years, but that he mailed the returns. All three tax returns had different signature dates in May 2024, and return receipts for these income tax returns were not provided. All three returns showed significant refunds were due to Applicant and his wife, but were retained by the IRS. (AE E; Tr2. 30-31) Applicant said he did not anticipate ever receiving the refunds shown on the returns due to other tax obligations he could owe. (Tr2. 25-29)

Applicant submitted documents indicating he filed six-month automatic extension requests for their 2020 and 2021 income tax returns, but not 2022. (AE E) He said he was not sure the IRS would accept the federal income tax returns. He did not present any documents or information about their state income tax returns. No federal or state tax transcripts were provided. Though Applicant disclosed the S2 business tax issue in his SCA, he did not disclose any personal income tax issues. It was only at the end of the first hearing the government became aware that he had other undisclosed personal income tax issues. (GE 1; Tr. 115-129; Tr2. 22-31; AE E)

Policies

“[N]o 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 applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” EO 10865 § 2.

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, an administrative judge applies these guidelines 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 and 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” EO 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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* 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. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan* at 531. See also AG ¶ 2(b).

Analysis

Guideline F, Financial Considerations

The security concern under this guideline 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.

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(c): a history of not meeting financial obligations; and

AG ¶ 19(f): failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

The SOR allegations are established by the evidence, including Applicant's SOR admissions, credit bureau reports, income tax documents, his background investigation, and admissions made in both hearings. AG ¶¶ 19(a), 19(c), and 19(f) apply.

The following mitigating conditions are potentially applicable:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;

AG ¶ 20(e): the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue; and

AG ¶ 20(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) and 20(c) are not established. Though some of Applicant's debts have been resolved or are being resolved, he has significant unresolved financial problems, including tax issues. He has taken positive steps towards addressing some of his debts, but his evidence is insufficient to find that his financial problems are behind him and will be resolved in a reasonable time. He did not present evidence that he received or is receiving financial counseling, and his financial problems are not under control.

AG ¶ 20(b) is not established. Applicant and his wife experienced success as entrepreneurs after selling a previous business to a private equity firm in 2009, earning \$3 million in profit. However, they experienced massive business and personal financial losses from the failure of their three hair salon businesses in 2019, an area in which neither were experienced. He attributed his overall financial situation to the failure of these businesses, followed by poor economic conditions due to the COVID-19 pandemic. Applicant shuttered his businesses in 2019, before the start of the pandemic. Economic conditions did not prevent them from paying employee withholding taxes or from timely filing their income tax returns.

Applicant took a huge risk and made a series of financial missteps by starting businesses that neither he nor his wife had experience in, and then he continued to finance two (S1, S3) of the businesses that were failing financially, at the expense of one (S2), that was quite profitable. He continued to use the bulk of his financial assets, including collateralizing his three properties, to keep the failing businesses afloat. These actions were not reasonable or responsible under the circumstances.

AG ¶ 20(d) is not fully established. Applicant is credited with taking positive steps to repay some overdue creditors and resolve some delinquent debts, and for resolving or being in the process of resolving five of his delinquent debts. However, he has significant unresolved debts and tax issues, and he has been unable to "stay the course" with several of his consumer creditors. Debt obligations are not absolved, per se, by any creditor's sale, discharge, or non-collectability of a debt.

AG ¶ 20(e) is not fully established. Applicant successfully disputed the debt in SOR ¶ 1.g, which is mitigated. Applicant said he disputed the amount of the SBA loan, not the debt itself. He did not believe he was fully credited for collaterals sold against the SBA loan. However, he did not present proof to substantiate the basis of the dispute, and there was no mechanism to otherwise evaluate his claim. The mere assertion that a debt is denied or disputed is insufficient to establish the legitimate dispute of a debt.

AG ¶ 20(g) is not established. Applicant has failed to timely file his federal income tax returns since at least 2018. Though he claimed he has worked with the same certified CPA for 15-years, he initially said he filed his 2018 federal income tax returns in 2020; his 2019 federal returns in 2021, and his federal 2020 returns in 2022. However, he submitted evidence that showed he did not complete his 2020, 2021, or 2022 returns until May 2024, just prior to his second hearing.

Applicant's CPA assisted him and his wife with completing their joint income tax returns, and Applicant filed them, but he did not know whether the IRS accepted them. No federal or state income tax transcripts were offered or presented as evidence in this case. Whether one is owed a refund or has to pay a deficit balance is immaterial, and independent of the duty to file income tax returns as required. Significant questions remain about the overall status of Applicant's federal and state income taxes.

Overall, there is insufficient evidence to determine that Applicant's financial problems are behind him. I am unable to find that he acted responsibly under the circumstances or that he made a good-faith effort to repay his debts. His financial issues continue to cast doubt on his reliability, trustworthiness, judgment, and his ability and willingness to comply with government rules and regulations. I find that financial considerations security concerns remain unresolved in this case despite the presence of some mitigation.

Whole-Person Analysis

Under the whole-person concept, the administrative judge must evaluate an Applicant's security eligibility by considering the totality of the Applicant's conduct and all the relevant circumstances. An 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 have incorporated my comments under Guideline F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations security concerns and has not carried his burden of showing it is clearly consistent with the national interest to grant him eligibility for access to classified information.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a, 1.b:	Against Applicant
Subparagraphs 1.c, 1.e:	For Applicant
Subparagraphs 1.d, 1.f, 1.h:	Against Applicant
Subparagraphs 1.g, 1.i, 1.j:	For Applicant
Subparagraphs 1.k - 1.n:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Gatha LaFaye
Administrative Judge