



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-01639

**Appearances**

For Government: Daniel P. O'Reilley, Esq., Department Counsel

For Applicant: Grant Couch, Esq.

11/21/2025

**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 May 5, 2022, and July 11, 2018, Applicant completed Electronic Questionnaires for Investigations Processing or security clearance applications (SCAs). (Government Exhibit (GE) 1; GE 2) On November 5, 2024, 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 DOHA 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 said his case will be submitted to an Administrative Judge for

a determination as to whether to grant, deny, or revoke his security clearance. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 2) On April 23, 2025, Applicant responded to the SOR, and he requested a hearing. On June 18, 2025, Department Counsel was ready to proceed. On July 3, 2025, the case was assigned to me. On July 15, 2025, DOHA issued a notice setting the hearing for September 4, 2025. (HE 1) The hearing was held as scheduled, using the Microsoft Teams video teleconference system. (HE 1)

During the hearing, Department Counsel offered 11 exhibits; Applicant offered 11 exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 12-14; GE 1-GE 11; Applicant Exhibit (AE) A-AE K)<sup>1</sup> On September 18, 2025, DOHA received a copy of the transcript. After the hearing Applicant provided seven exhibits, and they were admitted without objection. (AE L-AE R) On November 17, 2025, the last exhibits were received, and the record closed that same day.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript. Unless stated otherwise, the source for the information in the findings of fact is Applicant response to the SOR.

### **Findings of Fact**

In Applicant's SOR response, he denied all of the SOR allegations. (HE 3) He also provided extenuating and mitigating information.

Applicant is a 53-year-old senior system administrator. (Tr. 15, 17) He has never married. (Tr. 15-16) He has an associate degree in computer electronics and networking. (Tr. 16) He has not served in the military. (GE 1; GE 2)

### **Financial Considerations**

Applicant's salary varied from \$75,000 to \$115,000 over the last seven years because he has held several different employments. (Tr. 31-32; AE N) His current annual salary is about \$100,000. (Tr. 17, 31) His monthly expenses are approximately as follows: rent \$1,400; car loan \$650; cell phone \$90; utilities \$50; and Internet \$100. (Tr. 17) His monthly remainder is about \$3,500. (Tr. 17, 33)

In 2018 and 2019, Applicant had about \$25,000 in delinquent debt. (Tr. 57-58) He conceded that some of his financial problems were caused by "procrastination." (Tr. 58) His accounts were current in 2022. (Tr. 58)

In 2022, Applicant's parents and sister came to visit him, and the recreational vehicle they were living in had mechanical problems. (Tr. 25-26) Applicant moved out of his apartment because he and his relatives needed a larger place to stay, and expenses of about \$15,000 resulted from their lengthy visit. (Tr. 25-26, 50-52) Some accounts

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<sup>1</sup> Pages 190 to 234 were incorrectly included in the record, and those pages are not admitted into evidence. (Tr. 10)

became delinquent. (Tr. 25-26) In the last several years, he used several debt resolution companies to help him arrange settlement agreements or payment plans. (Tr. 57)

The SOR alleges about \$52,000 in delinquent federal income taxes (FITs) for tax years (TYs) 2014 through 2017, and about \$23,000 in non-tax related debt. The status of debts is as follows.

### **FIT issues**

SOR ¶¶ 1.a through 1.d allege Applicant is indebted to the federal government as follows: TY 2017 for \$14,434; TY 2016 for \$14,480; TY 2015 for \$13,659; and TY 2014 for \$9,851, respectively. SOR ¶ 1.e alleges Applicant has a FIT lien filed against him in 2018 for \$45,771. In his April 23, 2025 SOR response, Applicant said he hired a tax negotiation entity (TNE) to “help resolve his tax delinquencies and negotiations are ongoing.” (HE 3) He is paying TNE about \$50 monthly to resolve his tax issues. (Tr. 18-19) He signed an initial agreement with TNE in December 2022, and re-engaged TNE on November 5, 2024. (Tr. 20, 35) He re-engaged TNE again on April 3, 2025, just before he submitted his SOR response. (Tr. 35) He said he made about seven monthly payments of \$814 starting in April 2025 to TNE. (Tr. 36-37)

Applicant said he timely filed his TYs 2019, 2021, 2022, and 2023 FIT returns; however, the IRS lost his TYs 2019 and 2021 FIT returns. (Tr. 39-41) I credited him with timely filing his TYs 2019 and 2021 federal and state income tax returns. (HE 4) At the end of August 2025, TNE filed Applicant’s FIT return for TY 2024. (Tr. 37-38) He intends to pay all of his delinquent taxes in the next five years. (Tr. 19) In 2024, TNE filed his FIT returns for TYs 2019 and 2021 because the IRS did not have a record of receipt of those tax returns. (Tr. 41-42)

Applicant explained how he became delinquent on his taxes:

About 2014, all the way up to 2018 -- I hate to say I’m a serial procrastinator. That’s one of my issues. That’s part of my bipolar condition. But I got ahead and filed back in 2019. We had a payment agreement with them, got them all satisfied. And I know from 2020, we had that pandemic, and they stopped collecting in March for some reason. I don’t know why. You could not get a hold of anybody at the IRS to deal with it for about a year or two there. So I ended up had to go through [TNE] to get my tax filings going because they did not file my 2019 or [2021] taxes; they had no record of them. Like, well, they were filed, but the IRS didn’t have a record of it. So I had to go through them, get everything straightened out, get a tax thing going or a tax payment plan. (Tr. 19-20)

In November 2019, Applicant started a payment plan with the IRS. (Tr. 43-44) In 2020, the IRS stopped the payment plan because of the COVID-19 pandemic. (Tr. 43-44) When he filed his TY 2024 FIT return, he owed \$15,000, which he has not paid. (Tr. 63) Applicant said his current delinquent FIT debt for TYs 2014 through 2024 is about \$130,000. (Tr. 42) At the time of his hearing, he did not have an installment agreement

with the IRS. (Tr. 45) TNE sent a proposed payment plan to the IRS in which TNE said Applicant would pay \$2,500 monthly to the IRS. (Tr. 64) He believes he can make payments on his other debts and pay \$2,500 monthly to the IRS. (Tr. 64) He said he filed all of his state income tax returns. (Tr. 70) On September 25, 2025, which was after his hearing, he wrote two checks to the IRS for \$2,815 each. (AE P at 20) In the comments on the two checks it indicates the payments are for April and June 2025. (AE P at 20)

The IRS tax transcripts for TYs 2008 to 2013 and 2018 to 2020 were not provided. Applicant provided the IRS wage and income transcripts for TYs 2015 through 2024. (AE N) The IRS tax transcripts for TYs 2022 and 2023 indicate an IRS installment payment plan was approved on September 24, 2025; however, the first payment was not received. (AE R at 1, 7) An email from his representative and an IRS installment plan, dated October, 3, 2025, state the IRS has agreed to an installment plan with the first monthly payment of \$851 due by November 16, 2025. (AE N; AE S at 14) This IRS installment plan is to resolve FIT debts for TYs 2012, and 2015 through 2023. (AE N) It does not indicate the total amount of the FIT debt for those TYs.

The following table depicts FIT information from Applicant's IRS tax transcripts and the IRS tax lien from 2018. (GE 3; GE 4) Adjusted gross income is rounded to the nearest \$1,000 and taxes owed/refund is rounded to the nearest \$100.

Tax Year	Date Tax Return Filed	Adjusted Gross Income	Taxes Owed - Refund +	Exhibit
2008	Aug. 9, 2010		-\$4,000	GE 4
2009	Dec. 19, 2011		-\$5,000	GE 4
2010	Nov. 19, 2012		-\$3,000	GE 4
2014	Aug. 24, 2018	\$51,000	-\$9,500	GE 3 at 4-5
2015	Aug. 20, 2018	\$64,000	-\$13,000	GE 3 at 6-7
2016	Aug. 20, 2018	\$75,000	-\$14,000	GE 3 at 8-9
2017	Sept. 3, 2018	\$74,000	-\$14,000	GE 3 at 10-11
2021	Feb. 3, 2025	\$118,000	-\$16,200	AE R at 7
2022	Feb. 24, 2025	\$97,000	-\$18,000	AE R at 24
2023	Feb. 24, 2025	\$105,000	-\$17,000	AE R at 1-7
2024	Aug. 28, 2024	\$128,000	-\$11,300	AE O at 3-4
Total			-\$125,000	

Applicant's IRS tax transcripts, which are dated April 2, 2024, for TYs 2014 through 2017, show no payments were made to the IRS after his tax returns were filed. (GE 3) They also show establishment of installment agreements in 2018 and 2019. (GE 3) IRS enforcement was blocked during the COVID-19 pandemic. (GE 3) Applicant did not provide any corroborating evidence that he made payments under the IRS installment agreements in 2018 and 2019.

### **Falsification of 2022 SCA.**

Applicant's July 11, 2018 SCA, asked in Section 26, Financial Record, Taxes, in the last seven years, have you failed to file or pay federal, state, or other taxes when required by law or ordinance? (GE 1) Applicant answered, "Yes," and he disclosed that he failed to file FIT returns and pay FITs in full for TYs 2012, 2014, 2015, and 2016. (Tr. 49-51; GE 2) He estimated that he owed FITs of \$4,500 for TY 2012, \$0 for TY 2014, \$6,500 for TY 2015, and \$0 for TY 2016. *Id.* He said he forgot to file or procrastinated or both. *Id.*

Applicant's May 5, 2022 SCA, asked in Section 26, Financial Record, Taxes, in the last seven years, have you failed to file or pay federal, state, or other taxes when required by law or ordinance? (GE 1) Applicant answered, "No." In his 2022 SCA, he disclosed nine delinquent debts, and he said the debts were caused by "job change, relocation costs and pandemic." (GE 1) He said all of the delinquent debts would be resolved not later than the winter of 2023. (GE 1)

At his hearing, Applicant said he did not understand the question about taxes in his 2022 SCA. (Tr. 60) He also said he believed his tax returns were filed, and he had an IRS payment plan. (Tr. 61)

Department Counsel reminded Applicant that he stopped making payments to the IRS during the COVID-19 pandemic, and he engaged TNE in December 2022. (Tr. 61-62) Department Counsel asked, "So you just lied on the security clearance form; is that accurate?" and Applicant answered, "I guess." (Tr. 62)

After his hearing, he said:

It was never my intention to omit, defraud, or conceal any information regarding my tax delinquencies from the Government. Although I cannot attest to my mindset at the time I completed the SF-86, I have been diagnosed with bi-polar mood disorder and a learning disability. These diagnoses often lead to misreading, misunderstanding, or overlooking certain questions on forms. I believe that my self-reporting of my financial debts in the May 5, 2025, SF-86 shows that it was not my intent to withhold pertinent information. I acknowledge and understand the importance of being open and honest with all national security investigations and believe I have since provided all information regarding my financial delinquencies. (AE T at 18)

In his May 5, 2022 SCA, Applicant said he stopped treatment for his bipolar mood disorder "in 2016 due to job change and address change." (GE 1 at 44-45) His bipolar mood disorder will not be considered for disqualification purposes because there is insufficient evidence of how it might raise security concerns.

Applicant's SOR does not allege that he submitted false information in his May 5, 2022 SCA, and this information will not be considered for disqualification purposes. It will be considered for the limited purposes detailed in the analysis, *infra*.

### **Non-tax SOR debts**

SOR ¶ 1.f alleges Applicant has a charged-off debt owed to an appliance company for about \$5,538. He said from 2022 to 2023, he had a \$100 monthly payment plan with the creditor. (Tr. 47) On August 5, 2025, he obtained a new payment plan, which is acceptable to the creditor, and the settlement balance is \$3,894. He will be able to settle the debt by making 12 monthly \$194 payments totaling about \$2,300, with the first payment due on August 8, 2025. (Tr. 21, 47; AE D, at 15)

SOR ¶ 1.g alleges Applicant has a charged-off debt for about \$4,176. He has a payment plan, which is acceptable to the creditor. He is supposed to make \$348 monthly payments for 12 months. (Tr. 21-22; AE E at 17) After his hearing, he provided a receipt showing the debt was paid. (AE Q at 22)

SOR ¶ 1.h alleges Applicant has a charged-off debt for about \$4,304. On July 23, 2025, he received a settlement offer for \$1,458. (Tr. 48) He has a \$100 monthly payment plan, which is acceptable to the creditor, and the balance is \$1,448. (Tr. 22, 48-49; AE F at 19-21) He made the first \$100 payment to the creditor. (Tr. 49)

SOR ¶ 1.i alleges Applicant has a debt that is past due for \$594 with a total loan balance of about \$8,995. He has a \$250 monthly payment plan, which is acceptable to the creditor, and the balance is \$7,700. (Tr. 23) He said it should be paid in three years. (Tr. 23)

SOR ¶ 1.j alleges Applicant has a debt placed for collection for about \$6,492. He received the funds from the creditor in 2022. (Tr. 54) On July 23, 2025, the creditor offered him a settlement for \$3,245. (Tr. 53; AE G at 24) He has a \$143 monthly payment plan, which is acceptable to the creditor, and he made the first payment. (Tr. 23, 53-54; AE G at 23) The debt should be paid in 2026. (Tr. 23)

SOR ¶ 1.k alleges Applicant has an insurance debt placed for collection for about \$350. SOR ¶ 1.l alleges Applicant has a charged-off debt for about \$522. SOR ¶ 1.n alleges Applicant has a debt placed for collection for about \$229. In his April 23, 2025 SOR response, he said these three debts are paid, and he provided corroborating documentation. (Tr. 23-25; AE H at 27-28; AE K at 5; AE I at 28-29) The debt in SOR ¶ 1.l was paid on February 23, 2024. (AE K)

SOR ¶ 1.m alleges Applicant has a charged-off debt for about \$806, and SOR ¶ 1.o alleges Applicant has a debt placed for collection for about \$59. In his April 23, 2025 SOR response, he said these two debts do not belong to him and are being disputed. (HE 3) They were removed from his most recent credit report. (Tr. 24-25)

Applicant received credit counseling. (Tr. 27; AE C at 23) He uses a budget and a debt repayment plan. (Tr. 28; AE J at 2 of 22) His credit reports indicate he has several debts in paid, current, or paid as agreed status.

## **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;



- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

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

The financial considerations mitigating conditions under AG ¶ 20 which may be applicable in this case 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; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

The Appeal Board in ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013) 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 had some circumstances partially or fully beyond his control, which adversely affected his finances. In 2022, Applicant's parents and sister came to visit him and their recreational vehicle had mechanical problems. Applicant moved out of his apartment because they needed a place to stay, and expenses of about \$15,000 resulted from their visit. In his May 5, 2022 SCA, he disclosed nine delinquent debts, and he said the debts were caused by "job change, relocation costs and pandemic." (GE 1)

However, "[e]ven if [an applicant's] financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the [administrative judge] could still consider whether [the 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)). Applicant did not establish that he acted responsibly under the circumstances. He should have acted sooner to establish payment plans. AG ¶ 20(b) is partially established.

**Non-tax debts.** SOR ¶¶ 1.f through 1.n allege 14 delinquent debts totaling about \$23,000. Applicant paid the four debts alleged in SOR ¶¶ 1.g, 1.k, 1.l, and 1.n. He disputed the two debts in SOR ¶¶ 1.m and 1.o because he did not recognize the accounts, and they were removed from his credit report. He received settlement amounts from several creditors, which reduced the magnitude of those debts, and he made the initial payments under the creditor's payment plans.

In ADP Case No. 23-00547 at 3 (App. Bd. Apr. 23, 2024), the DOHA Appeal Board said:

[A]n applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). What constitutes responsible behavior depends on the facts of a given case and the fact that an applicant's debts will not be paid off for a long time, in and of itself, may be of limited security concern. ISCR Case No. 09-08462 at 4. Relevant to the equation is an assessment as to whether an applicant acted responsibly given [his or] her limited resources See, e.g., ISCR Case No. 08-06567 at 3-4 (App. Bd. Oct 29, 2009).

“[U]ntil an applicant has a meaningful financial track record, it cannot be said as a matter of law that he has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase ‘meaningful track record’ necessarily includes evidence of actual debt reduction through payment on debts.” ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007)).

A security clearance adjudication is not a debt-collection procedure. It is designed to evaluate an applicant’s judgment, reliability, and trustworthiness. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Applicants are not required “to be debt-free in order to qualify for a security clearance. Rather, all that is required is that an applicant act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by ‘concomitant conduct’ that is, actions which evidence a serious intent to effectuate the plan.” ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017) (denial of security clearance remanded) (citing ISCR Case No. 13-00987 at 3, n. 5 (App. Bd. Aug. 14, 2014)). There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant has an established history of paying his non-tax debts. He has taken meaningful actions to address several of the delinquent SOR debts. His credit reports indicate he has several debts in paid, current, or paid as agreed status, and he has an established track record of paying most of his non-tax debts. His history of making payments increases the confidence that he will maintain his financial responsibility with respect to his non-tax debts.

Applicant has demonstrated a good-faith effort to resolve his non-tax debts. His non-tax delinquent debts “occurred under such circumstances that [they are] unlikely to recur and [do] not cast doubt on [his] current reliability, trustworthiness, [and] good judgment.” There are clear indications that his financial problems related to his non-tax debts are resolved or being resolved and under control. His finances with respect to SOR ¶¶ 1.f through 1.o do not cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(d), and 20(e) are established for his non-tax debts. Financial considerations security concerns are mitigated for his non-tax debts.

**FIT issues.** SOR ¶¶ 1.a through 1.d allege Applicant is indebted to the federal government as follows: TY 2017 for \$14,434; TY 2016 for \$14,480; TY 2015 for \$13,659; and TY 2014 for \$9,851. SOR ¶ 1.e alleges Applicant has a FIT lien filed against him in 2018 for \$45,771. These five SOR allegations are established, and there is substantial evidence of the disqualifying conditions in AG ¶¶ 19(a), 19(b), 19(c), and 19(f) with respect to these five SOR allegations.

Applicant has owed delinquent taxes since 2009 (for TY 2008). He failed to timely file his FIT returns for TYs 2008, 2009, 2010, 2014, 2015, 2016, 2022, and 2023. He failed to disclose his failure to timely file and pay his FITs on his May 5, 2022 SCA. He falsely claimed at his hearing that he did not understand the tax question on his 2022 SCA even though he correctly answered it on his 2018 SCA. He answered other questions about

finances on his 2022 SCA, which indicate he read the SCA. These issues were not alleged in the SOR. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

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

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). These non-SOR allegations (more delinquent FITs than alleged, some FIT returns not timely filed, false statement in 2022 SCA about FITs, and false explanation at his hearing about not understanding tax questions on his SCA) will be considered in the credibility assessment, for their impact on mitigation, and under the whole-person concept. They will not be considered for disqualification purposes.

**Failure to timely file FIT returns.** This is a non-SOR allegation. Applicant did not provide sufficient justification for not timely filing tax returns for TYs 2008, 2009, 2010, 2014, 2015, 2016, 2022, and 2023.

A willful failure to timely make (means complete and file with the IRS) a FIT return is a misdemeanor-level federal criminal offense. Title 26 U.S.C. § 7203, willful failure to file return or supply information, reads:

Any person . . . required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to . . . make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor. . . .

A willful failure to make return, keep records, or supply information when required, is a misdemeanor without regard to the existence of any tax liability. *Spies v. United States*, 317 U.S. 492 (1943); *United States v. Walker*, 479 F.2d 407 (9<sup>th</sup> Cir. 1973); *United States v. McCabe*, 416 F.2d 957 (7<sup>th</sup> Cir. 1969); *O'Brien v. United States*, 51 F.2d 193 (7<sup>th</sup> Cir. 1931). For purposes of this decision, I am not weighing Applicant's failure to timely file his FIT returns against him as a crime. Regarding the failure to timely file his FIT returns, the Appeal Board has commented:

Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified

information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward *inducing an applicant to file tax returns*. Rather, it is a proceeding aimed at evaluating an applicant's judgment and reliability. *Id.* A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. See, e.g., ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). See *Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016) (emphasis in original). See ISCR Case No. 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).

The Appeal Board in ISCR Case No. 15-01031 (App. Bd. June 15, 2016) explained that in some situations, even if no taxes are owed when tax returns are not timely filed, grant of access to classified information is inappropriate. In ISCR Case No. 15-1031 (App. Bd. June 15, 2016), the applicant filed his 2011 FIT return in December 2013, his 2012 FIT return in September 2014, and his 2013 FIT return in October 2015. He received FIT refunds of at least \$1,000 for each year. Nevertheless, the Appeal Board reversed the administrative judge's decision to grant access to classified information.

The Appeal Board clarified that even in instances where an "[a]pplicant has purportedly corrected [his or her] federal tax problem, and the fact that [applicant] is now motivated to prevent such problems in the future, does not preclude careful consideration of [a]pplicant's security worthiness in light of [his or her] longstanding prior behavior evidencing irresponsibility" including a failure to timely file FIT returns. 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).

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

The timing of the resolution of financial problems is an important factor in evaluating an applicant's case for mitigation because an applicant who begins to resolve financial problems only after being placed on notice that his clearance was in jeopardy may lack the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his own interests.

In this instance, Applicant has owed FITs since 2009. He said his current delinquent tax debt for TYs 2014 through 2024 is about \$130,000. At the time of his

hearing, he did not have an installment agreement with the IRS. After his hearing, he provided two checks dated September 25, 2025, in which the IRS was payee for \$2,815 each. In the comments on the two checks it indicated the payments are for April and June 2025.

Applicant under withheld payments to the IRS from his income as recently as TY 2024. His FIT debt for TY 2024 is \$11,300. As of October 3, 2025, Applicant has an Installment Agreement with the IRS, and his first payment was due in November 2025. His approved IRS installment payment plan, and his two checks written to the IRS after his hearing are sufficient to establish AG ¶ 20(g); however, his overall handling of his taxes from 2009 to present leave lingering security concerns.

In ISCR Case No. 06-10320 at 2 (App. Bd. Nov. 7, 2007), the Appeal Board said:

The application of disqualifying and mitigating conditions and whole-person factors does not turn simply on a finding that one or more of them apply to the particular facts of a case. See, e.g., ISCR Case No. 01-14740 at 7 (App. Bd. Jan.15, 2003). Thus, the presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. As the trier of fact, the Judge has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or vice versa.

Applicant did not prove that he was unable to make greater progress sooner in the payment of his delinquent taxes, withholding proper amounts from his income, and establishing installment payment plans. Under all the circumstances, and considering the evidence “as a whole,” Applicant’s failures regarding his FIT debts 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.

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 53-year-old senior system administrator. He has an associate degree in computer electronics and networking.

The evidence against grant of a security clearance is detailed in the financial considerations section, *supra*, and this evidence is more substantial than the evidence of mitigation. Applicant did not establish that he was unable to establish payment plans and make payments under those plans sooner to address his FIT debt. His failure to take timely, prudent, responsible, good-faith actions from 2009 (when his TY 2008 taxes were due) to September of 2025 (when he wrote two checks to the IRS) raises 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 resolution of his tax issues, 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.e:

Against Applicant

Subparagraphs 1.f through 1.o:

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