



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

)
)
)
)
)

ISCR Case No. 24-02104

Applicant for Security Clearance

For Government: Tara R. Karoian, Esq., Department Counsel
For Applicant: *Pro se*, Esq.

12/08/2025

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 December 28, 2023, Applicant completed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On January 2, 2025, 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) Applicant provided an undated response to the SOR. On July 15, 2025, Department Counsel was ready to proceed. On July 21, 2025, the case was assigned to me. On July 24, 2025, DOHA issued a notice setting the hearing for September 10, 2025. (HE 1) The hearing was held as scheduled, using the Microsoft Teams video teleconference system. (HE 1)

During the hearing, Department Counsel offered five exhibits; Applicant offered nine exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 19-23; GE 1-GE 5; Applicant Exhibit (AE) A-AE I) On September 22, 2025, DOHA received a copy of the transcript. After the hearing Applicant provided five exhibits, and they were admitted without objection. (AE J-AE M) The record closed on November 10, 2025. (Tr. 48, 79-81) This decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

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 admitted SOR ¶¶ 1.a, 1.c, and 1.e. He denied SOR ¶¶ 1.b and 1.d. (HE 3) He also provided extenuating and mitigating information.

Applicant is a 43-year-old employee of a DOD contractor. (Tr. 7, 10) He inspects Navy ships for items needing repair. (Tr. 10) He has worked for his current employer for about 30 months. (Tr. 10) In 1998, he graduated from high school. (Tr. 7) He completed two years of college; however, he has not received a degree. (Tr. 7) His major is software management. (Tr. 7) He served about two years on active duty in the Air Force. (Tr. 7) He was an airman basic (E-1) when he left the Air Force. (Tr. 10) In 2001, he received a general discharge under honorable conditions. (Tr. 8, 16; GE 1) He has worked as a government contractor for about 20 years with some periods of unemployment. (Tr. 10) He was married from 2015 to 2019. (Tr. 11)

Applicant has a 90 percent disability rating from the Department of Veterans Affairs (VA). (Tr. 11) His highest rating is 70 percent for post-traumatic stress disorder (PTSD), which resulted from crash of a military jet. (Tr. 11-12) His personal financial statement indicates he has a monthly remainder of \$1,733. (AE K)

Financial Considerations

In his SOR response, Applicant said:

Between 2018 and 2023, I faced significant personal and financial hardships, including the loss of stable employment, homelessness, and the challenges of a divorce. These events created substantial obstacles in

maintaining timely tax filings. However, despite these setbacks, I have worked closely with my Certified Public Accountant (CPA) to successfully address all outstanding tax filings. I have taken proactive steps to rebuild my financial stability and ensure full compliance with my legal obligations. As of the 2024 tax year, all required tax returns have been filed. (HE 3)

In his December 28, 2023 SCA, Applicant said he was unemployed from March 2020 to May 2022 and from February to May 2023. (GE 1 at 12)

The status of the SOR allegations is as follows.

SOR ¶ 1.a alleges Applicant failed to timely file, as required, federal income tax (FIT) returns for the tax years (TY) 2019 through 2023. On May 19, 2025, Applicant's certified public accountant (CPA) wrote that all required state and FIT returns were filed, and the only remaining matter is "final confirmation of a formal payment arrangement with the IRS." (Tr. 30) The CPA said he filed his FIT returns for TY 2024 in March or April of 2025, and he owed \$5,363. (Tr. 27-28; AE G at 45) For TY 2024, he did not withhold any money from his monthly salary to go to the IRS. (Tr. 49) He started withholding funds for the IRS from his income in early 2025. (Tr. 50) He believes his total FIT liability is \$13,200. (Tr. 30) He submitted an offer in compromise to the IRS in August 2025. (Tr. 32) He decided to make monthly \$360 payments for 48 months the week before his hearing, and the first \$360 payment was made in September 2025. (Tr. 32-33, 50-52)

Applicant did not have a payment agreement with the IRS at the time of his hearing; however, the IRS approved his payment plan after his hearing. (Tr. 33-34) On September 17, 2025, the IRS wrote Applicant and advised him that his payment plan was to pay \$360 monthly to address his FIT debt for TYs 2022, 2023, and 2024 with the first payment due on October 17, 2025. (AE J) The IRS correspondence did not include the amount of the FIT debt owed for those three years. (AE J)

The following table depicts FIT information from his tax returns. (AE G) Adjusted gross income is rounded to the nearest \$1,000 and taxes owed/refund is rounded to the nearest \$100.

Tax Year	Date FIT Return Filed	Adjusted Gross Income	Amount Withheld from Income	Taxes Owed - Refund +	Exhibit
2019	May 16, 2025	\$51,000	\$701	-\$3,800	AE G at 12-13
2020	May 16, 2025	\$36,000	\$1,803	-\$300	AE G at 27-28
2021	May 16, 2025	\$0	\$0	+\$1,389	AE G at 37-38
2022	May 16, 2025	\$38,000	\$402	-\$2,600	AE G at 4-5
2023	May 16, 2025	\$49,000	\$20	-\$4,000	AE G at 18-19
2024	May 16, 2025	\$61,000	\$0	-\$5,400	AE G at 45-46
Total				-\$14,711	

In his December 28, 2023 SCA Applicant disclosed that he had not filed his FIT returns for TYs 2020, 2021, and 2022. (GE 1 at 42-43) He said:

I have taken steps needed to move and get settled in a new city post-divorce and covid and loss. I have obtained a tax professional that is assisting me with the filing process. Also, in the Acquisition of lost records and files. To determine tax liability, (if any) and to resolve payments quickly and efficiently. *Id.*

SOR ¶ 1.b alleges Applicant failed to timely file, as required, state income tax returns for TYs 2019 through 2023 in state V. Applicant lived in states with no income taxes during TYs 2019 through 2023; however, his employer was in state V, which has a requirement to file income tax returns. (Tr. 24-25) Applicant said his CPA advised him that he did not need to file an income tax return in state V. (Tr. 25-26)

SOR ¶ 1.c alleges Applicant has a charged-off debt owed for a vehicle loan for approximately \$15,461. He financed the purchase of a vehicle, and he said the creditor changed his interest rate without properly notifying him. (Tr. 36) He purchased an extended warranty, and the holder of the warranty did not want to pay for repair of his transmission. (Tr. 36) Applicant negotiated a settlement with the creditor. (Tr. 37; GE 2 at 38-39) In August of 2024, he turned in the vehicle, and the balance owed at that time was \$4,185. (Tr. 39) In January of 2025, he was scheduled to make \$110 monthly payments totaling \$387 to the creditor. (Tr. 40) He said there was supposed to be a final settlement amount after his vehicle was sold or after he made the payments totaling \$387. (Tr. 39-40) On April 22, 2025, the creditor wrote that the first three \$110 payments were made, and the principal balance was \$57. (Tr. 41; AE F)

SOR ¶ 1.d alleges Applicant has a debt placed for collection for approximately \$2,765. He disputed the debt from his landlord because he did not stay on the property for a sufficient period and a credit report removed the debt. (Tr. 35)

SOR ¶ 1.e alleges Applicant has a credit-card debt placed for collection for approximately \$635. On March 25, 2025, the creditor wrote the debt was paid in full. (Tr. 34; AE D)

Applicant's 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.

Character Evidence

Two coworkers and friends described Applicant as thoughtful, helpful, trustworthy, reliable, responsible, diligent, and honest. (Tr. 56-61, 69-74) His tax return preparer said, Applicant "has conducted himself with integrity, transparency, and responsibility throughout this process. In my professional opinion, he poses no security risk and fully understands the importance of personal accountability, especially in the context of national security and trust." (AE E)

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 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. He experienced divorce, underemployment, and unemployment from March 2020 to May 2022 and from February to May 2023. 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)). He established that he acted responsibly under the circumstances with respect to the debts in SOR ¶¶ 1.c, 1.d, and 1.e. AG ¶ 20(b) is partially established.

Non-tax debts. SOR ¶¶ 1.c through 1.e allege three delinquent debts totaling approximately \$18,861. He paid one debt; he successfully disputed one debt; and he made three \$110 payments to address one debt. The \$15,461 debt was based on a repossessed vehicle, and it may be substantially reduced when the vehicle is sold.

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 taken meaningful actions to address his three 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.c through 1.e do not cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), 20(d), and 20(e) are established for his non-tax SOR debts. Financial considerations security concerns are mitigated for his non-tax SOR debts.

For SOR ¶ 1.b, Appellant received tax advice that he did not need to file a state V income tax return because he had an address or residence in states with no income taxes. He relied in good faith on this advice. This allegation is mitigated.

FIT issues. SOR ¶ 1.a alleges Applicant failed to timely file his FITs for TYs 2019 through 2023. There is substantial evidence of the disqualifying condition in AG ¶ 19(f) with respect to this allegation.

Applicant has owed delinquent taxes since 2020 (for TY 2019). He failed to timely file his FIT returns for TYs 2019 through 2023. Applicant’s FIT debts for TYs 2019 through 2024 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))). This non-SOR allegation (delinquent FIT debts) will be considered in the credibility assessment, for its impact on mitigation, and under the whole-person concept. It will not be considered for disqualification purposes.

Failure to timely file FIT returns. Applicant did not provide sufficient justification for not timely filing tax returns for TYs 2019 through 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 offense 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 (9th Cir. 1973); *United States v. McCabe*, 416 F.2d 957 (7th Cir. 1969); *O'Brien v. United States*, 51 F.2d 193 (7th Cir. 1931). For purposes of this decision, I am not considering Applicant's failure to timely file his FIT returns against him as a crime. In regard to 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 2020. His current delinquent tax debt for TYs 2019 through 2024 is about \$14,000. At the time of his hearing, he had an installment agreement with the IRS. In September 2025, he made the first \$360 payment, which was due in October 2025 under his plan.

Applicant under withheld payments to the IRS from his income for several years including in TY 2024. His payment to the IRS in September 2025 is sufficient to establish AG ¶ 20(g); however, his overall handling of his taxes from 2020 to present leaves 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 must 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 filing of his delinquent taxes, withholding proper amounts from his income, and establishing installment payment plans. In his December 28, 2023 SCA, he promised to resolve his tax issues, and he waited until May 2025, which was after receipt of the SOR, to file his overdue tax returns. Under all the circumstances, and considering the evidence “as a whole,” Applicant’s failures regarding his FITs 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 43-year-old employee of a DOD contractor. He inspects Navy ships for items needing repair. He has worked for his current employer for about 30 months. He completed two years of college. His major is software management. He served about two years on active duty in the Air Force. He was an airman basic (E-1) when he left the Air Force. In 2001, he received a general discharge under honorable conditions. Applicant has a 90 percent disability rating from the VA. His highest rating is 70 percent for PTSD, which resulted from crash of an Air Force plane jet. He has worked as a government contractor for about 20 years. He was married from 2015 to 2019.

Two coworkers and friends described Applicant as thoughtful, helpful, trustworthy, reliable, responsible, diligent, and honest. His tax return preparer said, Applicant “has conducted himself with integrity, transparency, and responsibility throughout this process.

In my professional opinion, he poses no security risk and fully understands the importance of personal accountability, especially in the context of national security and trust." (AE E)

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 file his FITs, 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 2020 (when his TY 2019 FITs were supposed to be filed) to the September 2025 (when he made a payment under his IRS payment plan) 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

Subparagraph 1.a:

Against Applicant

Subparagraphs 1.b through 1.e:

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.

Mark Harvey
Administrative Judge