



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



In the matter of:)
)
) ISCR Case No. 25-00464
)
Applicant for Security Clearance)

For Government: Daniel P. O'Reilley, Esq., Department Counsel
For Applicant: *Pro se*

03/23/2026

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 October 31, 2023, Applicant completed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On June 27, 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) 1)

The SOR detailed reasons why DCSA did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and 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 1) On August 1, 2025, Applicant responded to the SOR. (HE 2) On September 3, 2025,

Department Counsel was ready to proceed. 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. On December 1, 2025, the case was assigned to me. On December 10, 2025, DOHA issued a notice setting the hearing for January 14, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system. (HE 3)

During the hearing, Department Counsel offered five exhibits; Applicant offered two exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 15-17; GE 1-GE 5; Applicant Exhibit (AE) A-AE B) On February 3, 2026, DOHA received a copy of the transcript. No post-hearing documentation was received. The record closed on March 16, 2026. (Tr. 62-63, 70)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted SOR ¶¶ 1.b through 1.e. He denied SOR ¶ 1.a. (HE 3) He also provided extenuating and mitigating information.

Applicant is a 45-year-old systems engineer employed by a Department of War (DoW) contractor for about 30 months as a systems engineer. (Tr. 6, 8, 23) In 1999, he graduated from high school, and he has about three semesters of college. (Tr. 6-7) He does not have a college degree. (Tr. 7) He has not served in the military. (Tr. 7) He married in 2001 and divorced in 2005. (Tr. 7) In 2006, he married his current spouse, and he has three children ages 16, 17, and 24. (Tr. 7-8, 22) If his security clearance is not approved, it will harm his ability to contribute to his employer's missions. (Tr. 56)

Financial Considerations

Applicant has three children, and "two of which are autistic, one of which has been admitted in and out of mental institutions for approximately 24 to 36 months for self-harm and suicidal ideations." (Tr. 20) He and his spouse "had to focus our money, energies, and effort towards that." (Tr. 20) He moved to a different state to care for parents. (Tr. 50) The COVID-19 pandemic disrupted his communications with the Internal Revenue Service (IRS) and he was unable to establish a payment plan until all tax returns were filed. (Tr. 20-21) His family's medical problems have abated in the last year or so, and their family situation is stable. (Tr. 47, 52)

Applicant and his spouse have not had any periods of unemployment in the last eight years. (Tr. 24-25) Applicant's current gross annual salary is about \$239,000, and his spouse's current gross annual salary is about \$170,000. (Tr. 25-26)

The SOR alleges Applicant failed to file as required the following tax returns: ¶ 1.a. federal income tax (FIT) returns for the tax years (TY) 2012, 2013, 2020, and 2023; and ¶ 1.b a state income tax (SIT) return for the TY 2023. The SOR alleges he owes the

following FIT debts: ¶ 1.c TY 2016 (\$9,542); ¶ 1.d TY 2022 (\$9,906); and ¶ 1.e 2024 (\$7,912).

In his October 31, 2023 SCA, Applicant disclosed he did not file or pay his TY 2012 FIT as required. (GE 1 at 42) He said his TY 2012 FIT return was mailed, but missing, and he owed an estimated \$46,000. (GE 1 at 42) He did not indicate when his TY 2012 FIT return was mailed. The issue was satisfied in April 2020. (GE 1 at 42) In his SOR response, he said his FIT returns for TYs 2012 and 2013 were filed; however, he did not indicate when they were filed. (HE 2) The record does not establish that his TY 2013 FIT return was filed late.

According to his SCA, for TY 2021, he owed a FIT debt of \$15,000. (GE 1 at 42) He had a FIT lien for \$12,500, which was paid when he and his spouse sold their house in 2020. (Tr. 19, 38-39, 60-61; GE 1 at 43-44; GE 2 at 12) An IRS document indicates the tax lien was for the following years and amounts: 2013 (\$3,368); 2014 (\$4,398); and 2015 (\$6,448). (Tr. 28; GE 2 at 13)

In his SOR response, Applicant said he was in the process of filing his FIT returns for TYs 2020 and 2023. He was also prepared to file his SIT return for TY 2023. He admitted the three FIT debts alleged in the SOR, said he contacted the Internal Revenue Service (IRS), and was advised he had to file all overdue FIT returns before a payment plan could be arranged.

The following table depicts FIT information from his December 18, 2024 IRS tax transcripts. (GE 2) Adjusted gross income (AGI) 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 | Taxes Owed - Refund + | Exhibit |
|----------|---------------------------|-----------------------|-----------------------|---------------|
| 2014 | Oct. 21, 2015 | \$179,000 | \$0 | GE 2 at 18-20 |
| 2015 | Sept. 29, 2016 | \$176,000 | \$0 | GE 2 at 21-22 |
| 2016 | Jan. 1, 2018 | \$211,000 | \$9,500 | GE 2 at 23-25 |
| 2017 | Oct. 25, 2019 | \$228,000 | \$0 | GE 2 at 26-28 |
| 2018 | Apr. 15, 2019 | \$269,000 | \$0 | GE 2 at 29-30 |
| 2019 | July 15, 2020 | \$392,000 | \$0 | GE 2 at 31-32 |
| 2020 | Return Not Present at IRS | | | GE 2 at 33-34 |
| 2021 | Apr. 18, 2022 | \$289,000 | \$0 | GE 2 at 35-37 |
| 2022 | Apr. 24, 2023 | \$342,000 | \$9,900 | GE 2 at 38-39 |
| 2023 | Return Not Present at IRS | | | GE 2 at 40 |

Applicant's TY 2017 FIT transcript shows: he paid \$13,457 on March 30, 2021, to address his delinquent TY 2017 FIT debt. (GE 2 at 27); and on June 16, 2020, \$4,713 was transferred from his 2016 FIT return to address his TY 2017 FIT debt. (GE 2 at 27) In sum, his FIT for TY 2017 was not paid until 2021. (GE 2 at 27-28) Late payment of his FIT for TY 2017 was not alleged in the SOR.

Applicant's tax transcript for TY 2018 shows \$1,178 from his refund was transferred to address a FIT debt for TY 2009, and \$768 from his refund was transferred to address a FIT debt for TY 2010. (GE 2 at 30) His TY 2019 tax transcript shows that on February 12, 2021, he paid \$15,231 for his 2019 taxes. (GE 2 at 32) For his TY 2021 FIT return, on April 15, 2022, the IRS transferred \$541 to address a FIT debt for TY 2016. (GE 2 at 36) In sum, he paid his TY 2019 FIT in 2021. The SOR does not allege late payment of his TY 2019 FIT.

Applicant received the following SIT refunds: TY 2021 (\$2,900); TY 2022 (\$400); and TY 2024 (\$1,000). (GE 5) His June 3, 2025 IRS tax transcript for TY 2024 indicates his tax return was filed on April 15, 2025; his AGI was \$355,000; and FIT owed was \$7,900. (GE 4) Taxes were rounded to nearest \$100, and AGI was rounded to nearest \$1,000.

Applicant checked the IRS website during the hearing, and he said it indicated his FIT debts for the years listed in the above table showing \$0 owed are correct; however, for TY 2022 he owes \$11,115. (Tr. 30) According to the IRS website, his tax return for TY 2023 is not filed, and for TY 2024, there's an outstanding balance of \$8,663. (Tr. 31) At the time he completed his SCA, he had not filed his TY 2012 FIT return. (Tr. 31) Applicant believed his FIT debt for TY 2012 was resolved because his federal tax lien listed TYs later than 2012, and if his TY 2012 taxes were unresolved, it would have been listed on this lien. (Tr. 32)

At his hearing, Applicant said he mailed his TY 2020 FIT return to the IRS during the COVID-19 pandemic, and the IRS said it was not received. (Tr. 42-44) He faxed his TYs 2020 and 2023 FIT returns to the IRS in August of 2025, and that same month, the IRS advised they had still not been received them. (Tr. 42-45) In November of 2025, an IRS employee told Applicant the FYs 2020 and 2023 FIT returns were received but not processed. (Tr. 42-45) The net taxes owed on the two returns is about \$3,500. (Tr. 45) Applicant is unable to establish an IRS payment plan for TYs 2016, 2022, and 2024 until the IRS processes his tax returns for TY 2020 and 2023. (Tr. 48, 58-59) He previously complied with IRS payment plans, and historically, he completed payments for multiple tax years. (Tr. 54-55)

Applicant is working on getting his SIT return filed for TY 2023. (Tr. 47) He filed his SIT for TY 2024, and his \$900 SIT refund was sent to the IRS to pay his FIT debt. (Tr. 48)

Character Evidence

Applicant's two supervisors for the previous 30 months supported approval of his security clearance. (AE A; AE B) The general sense of their statements is that Applicant demonstrates integrity, morality, ethics, professionalism, trustworthiness, competence, dedication, diligence, exemplary work performance, and reliability. (AE A; AE B) He consistently exceeds expectations and demonstrates "attention to detail, strong work ethic, and ability to perform under pressure." (AE A)

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 War or his designee to grant applicant 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. An unfavorable decision should not be construed to suggest that it is based, in whole or in part, on any express or implied determination about an applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of War, 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;
- (c) a history of not meeting financial obligations; and

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

The record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f), 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. His children had mental-health issues, he needed to move to support parents, and the COVID-19 pandemic adversely affected his finances. 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 did not present sufficient evidence that he acted responsibly under the circumstances with respect to the financial issues in the SOR because he did not establish his inability to make more progress sooner to file and pay his taxes. He and his spouse’s gross annual income is about \$400,000, and his annual income for the previous five years has ranged from about \$270 to \$390,000. AG ¶ 20(b) is partially established.

Applicant failed to timely file as required the following tax returns: SOR ¶ 1.a, FIT returns for the TYs 2012 and 2023; and SOR ¶ 1.b, a SIT return for the TY 2023. He owes the following FIT debts: SOR ¶ 1.c, TY 2016 (\$9,542); SOR ¶ 1.d, TY 2022 (\$9,906); and SOR ¶ 1.e, TY 2024 (\$7,912).

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 had an ongoing FIT debt since 2014. An IRS document indicates his FIT lien was for the following years: 2013 (\$3,368); 2014 (\$4,398);

and 2015 (\$6,448). The tax lien was satisfied in 2019 or 2020. For TY 2017, he paid \$13,457 on March 30, 2021, which was late more than two years. For TY 2019, on February 12, 2021, he paid \$15,231, which was several months late. The FIT debts not timely paid and not alleged in the SOR will not be considered for disqualification purposes; however, they will be considered in the mitigation assessment of his overall FIT compliance.

Applicant did not successfully file his FIT return for TY 2020 in 2021. At the time of his hearing, he did not have an installment agreement with the IRS because he was ineligible for an installment agreement until all tax returns were filed. The IRS estimated that he owed about \$28,000 in delinquent FIT for TY 2016 (\$9,542); TY 2022 (\$11,115); and TY 2024 (\$7,912). I have credited him with filing his FIT returns for 2020 and 2023, and his SIT return for TY 2023 should be filed soon.

Applicant said he previously successfully completed an IRS payment plan, and he paid an IRS lien in 2019 or 2020. He also owes zero balances for most TYs. AG ¶ 20(g) does not fully apply because his payment plan for his current FIT debt is not established. His overall handling of his taxes from 2014 to present leaves lingering security concerns. See ISCR Case No. 24-02104 at 2 (App. Bd. Jan. 26, 2026) (affirming denial of security clearance and noting despite some mitigation under AG ¶ 20(g) that evidence as a whole did not support mitigation).

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 tax returns, 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 FITs and SITs 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 45-year-old systems engineer employed by a DoW contractor for about 30 months as a systems engineer. In 1999, he graduated from high school, and he has about three semesters of college. He does not have a college degree. In 2006, he married his current spouse, and he has three children ages 16, 17, and 24. If his security clearance is not approved, it will harm his ability to contribute to his employer's missions.

Applicant's two supervisors for the previous 30 months supported approval of his security clearance. The general sense of their statements is that Applicant demonstrates integrity, morality, ethics, professionalism, trustworthiness, competence, dedication, diligence, exemplary work performance, and reliability. He consistently exceeds expectations and demonstrates “attention to detail, strong work ethic, and ability to perform under pressure.” (AE A)

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 timely file his TYs 2012 and 2023 FIT returns and his TY 2023 SIT return, establish payment plans, and make payments sooner to address his FIT debt. His failure to take timely, prudent, responsible, good-faith actions 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)).

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.

