DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 25-01294
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Laurenann L. Shure, Esq., Department Counsel
For Applicant: *Pro se*

09/04/2026

Decision

HARVEY, Mark, Administrative Judge:

Guideline E (personal conduct) security concerns are refuted; however, Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On September 25, 2024, and January 15, 2019, Applicant completed security clearance applications (SCAs). (Government Exhibit (GE) 1; GE 2) On December 11, 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 stated his case would be submitted to an Administrative

Judge for a determination whether to grant, deny, or revoke his security clearance. Specifically, the SOR set forth security concerns arising under Guidelines F and E. (HE 1) On January 9, 2026, Applicant responded to the SOR. (HE 2) On April 17, 2026, Department Counsel was ready to proceed. On May 4, 2026, the case was assigned to me. On May 11, 2026, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for June 11, 2026. (HE 3) The hearing was held as scheduled, using the Microsoft Teams video teleconference system.

During the hearing, Department Counsel offered eight exhibits; Applicant did not offer any exhibits; and all proffered exhibits were admitted into evidence without objection. (Tr. 21-22, 30-32; GE 1-GE 8) On June 23, 2026, DOHA received a copy of the transcript. Applicant provided three post hearing documents. (Applicant Exhibit (AE) A-discussion of settlement; AE B-amount of child support owed; AE C-IRS tax transcripts) The record closed on August 31, 2026.

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 the allegations in SOR ¶¶ 1.a through 1.p, 2.a, and 2.b. His admissions are accepted as findings of fact.

Applicant is 41 years old, and he is seeking employment as an intelligence analyst subject-matter expert, which requires a security clearance. (Tr. 6, 17-19, 33) In 2003, he graduated from high school, and in 2008, he received an associate degree in intelligence operations and a bachelor's degree in criminal justice and homeland security. (Tr. 6-7) In 2005, he joined the Army National Guard (ARNG) and served as an enlisted soldier until he was commissioned in 2008. (Tr. 7-11) He served in the ARNG until about 2015, and he was credited with about eight years of points for duties in various positions. (Tr. 7-13, 34, 78) His commissioned branch was military intelligence; he served a tour in Iraq from 2009 to 2010; and he left the ARNG as a captain. (Tr. 12-14) In 2008, he married, and in 2018, he was divorced. (Tr. 15, 33) In 2018, he married, and in 2020, he was divorced. (Tr. 16, 34) His three children are aged 14, 19, and 20. (Tr. 34)

Applicant filed a discrimination claim against a previous employer. (Tr. 37) He suggested the settlement may have been applied to his child-support arrearage. (Tr. 39) He indicated he might not be able to disclose information about his settlement. (Tr. 38-39) After his hearing, he provided some information about his claim:

> As stated in the hearing, I noted that I had been part of a discrimination claim where a settlement was reached while I was working on a contract in the [location omitted]. Attached are documents that show that the day that I signed the document agreeing to a settlement offer, my clearance was pulled. My previous company had no idea why my clearance was pulled,

> but the response stated in email below said no reply to a statement of reasons. Based on my understanding of the process, the FSO of my previous contract employer should [or] would have been informed through channels prior to the final date that I needed to complete forms by a certain time. Trying to understand why that didn't happen, where that paperwork went or why It never reached me was concerning.
>
> Since then, each month and for years it has been an ongoing process to work through the channels to get back to work. This also shows how the time in between and the issue with my clearance has over time has placed a substantial hardship on my normal way of life. The significance of this is knowing that the bills and the majority of the past owed debt that was noted in the hearing was mostly accrued following that moment after clearance was pulled following signing a settlement letter for discrimination.
>
> As noted below, previously complete settlement documents were sent over to my old attorney office 3/5/2020. My previous employer noted [the employer was] informed that it was pulled pending a statement of reasons dated 3/5/2020. (AE A)

Financial Considerations

Applicant's financial troubles began in 2016 or 2017 when he and his spouse had separate households in two different states. (Tr. 35-37) Applicant provided for his own living expenses and was providing some support for his children. (Tr. 35-37) He also had some periods of unemployment in 2018. (Tr. 37-39) He was unemployed from September of 2018 to January of 2019. (Tr. 39-42; GE 1 at 15) He was self-employed from October of 2019 to 2025. (Tr. 43-44) He has read books about financial matters and listened to podcasts; however, he has not received financial counseling. (Tr. 71) He employed experts to assist with his taxes. (Tr. 71)

SOR ¶ 1.a alleges, and Applicant admitted, he failed to timely file Federal income tax (FIT) returns for tax years (TYs) 2016 through 2024. He said all of his FIT returns were filed "to my understanding." (Tr. 45) His tax return preparer informed him that since the paper copies were recently sent to the IRS their receipt might not be reflected in IRS documentation. (Tr. 47) At his hearing, he said he may owe some FIT. (Tr. 78)

SOR ¶ 1.b alleges, and Applicant admitted, he failed to timely file state income tax (SIT) returns for at least TYs 2018 through 2024. From 2018 through 2024, he lived in a state which requires filing a SIT return. (Tr. 45) He said all of his SIT returns were filed; however, he did not provide evidence of when they were filed. (Tr. 45)

In his December 9, 2025 response to DOHA interrogatories, Applicant stated:

> Years 20-24 have not yet been filed. I have submitted all my documents to a tax preparer to be filed. The tax office informed me that it will be a up-front fee of $400 for each year to file. Given the lack of additional income and current expenditure I have not filed those years due to lack of upfront fee. (GE 3 at 36)

Applicant provided a written statement addressing the SOR allegations. For SOR ¶¶ 1.a and 1.b, he stated:

> I Admit. For the years 2016-2019. There was a delay with those filed returns following a divorce. After attempting to do my taxes myself for those years I was notified that I needed a 4-digit pin that was used on the previous year when I filed my taxes. My ex submitted the taxes for that previous year. When I notified her, I needed [a] pin to submit taxes I never received it so I was unable to file using the methods I had in the previous years which resulted in a delay. That went on for a period until I went to a tax office and had them done in office [firm omitted]. For the following years 2020-2025 filings were delayed due to unforeseen circumstances where the means were not available to get them done in a timely manner. Currently, all taxes for the previously unfiled years have been presented to a tax preparer and are being submitted. I can provide confirmation of the filings once I receive final documentation. (GE 3 at 195)

After his hearing, Applicant provided copies of his FIT and SIT returns for TY 2020, 2021, and 2022. His unsigned TY 2020 tax returns are undated. (GE 3 at .pdf 211-227) His unsigned FIT return for TY 2021 is dated April 19, 2024, near his tax preparer's signature block. (GE 3 at .pdf 198-201) His unsigned FIT return for TY 2022 is dated January 22, 2024, near his tax preparer's signature block. (GE 3 at .pdf 210-202) On August 24, 2026, the IRS advised Applicant that the IRS recalculated his child support information for TY 2021 and awarded a refund of $2,160. (AE C at 1-3)

On June 22, 2026, the IRS wrote Applicant that for TYs 2022, 2023, and 2024, "No record of return filed." (AE C at 8, 10, 12) On August 19, 2026, the IRS wrote Applicant and stated:

> We received a tax return for tax year 2022 using your name and Social Security number (SSN) or individual taxpayer identification number (ITIN) . . . . We need more information from you to verify your identity and tax return information so we can continue processing your tax return and issue a refund, or credit any overpayments to your next year's estimated tax, We can't process your tax return until we hear from you. (AE C at 4)

On June 29, 2026, the IRS wrote Applicant that his TY 2025 FIT return was received, and $1,121 was due by July 20, 2026. (AE C at 13) His total wages for TY 2025 were $49,000 (rounded to nearest $1,000). (AE C at 17)

SOR ¶ 1.c alleges, and Applicant admitted, he has an account that is past due for about $22,516. He said he is making payments to the creditor, and he will provide proof of payments after his hearing. (Tr. 64) He did not provide proof of payments.

SOR ¶ 1.d alleges, and Applicant admitted, he is indebted on an account that is past due in the approximate amount of $165 with a total balance of $590. He said he has not paid this debt; however, he intends to pay it. (Tr. 64)

SOR ¶ 1.e alleges, and Applicant admitted, he has a charged-off account for about $3,476. He said he did not have information on the status of this debt. (Tr. 64)

SOR ¶¶ 1.f and 1.g allege, and Applicant admitted, he has accounts placed for collection for about $2,559 and $1,056. Applicant said he did not have information on the status of these two debts. (Tr. 64-65)

SOR ¶¶ 1.h and 1.i allege, and Applicant admitted, he has two accounts placed for collection for gym memberships for about $263 and $241. Applicant said that he terminated gym memberships, and the creditors wanted payments for additional time as a gym member. (Tr. 65) He has not submitted correspondence to the creditors disputing his responsibility for the two debts. (Tr. 66)

SOR ¶¶ 1.j and 1.k allege, and Applicant admitted, he has two accounts placed for collection owed for federal student loans for about $21,991 and about $8,647, respectively. He previously had a deferment on his student loans. (Tr. 79) He did not have information on the status of these loans. (Tr. 66) He said he may have a dispute on a student loan because of an issue with the college's accreditation. (Tr. 79-80)

SOR ¶ 1.l alleges, and Applicant admitted, he has a child-support arrearage for about $57,410. I asked him to provide a list of his payments and status of his balance from the state after his hearing. (Tr. 79) On July 27, 2026, the state child support agency wrote that his current child support debt was $61,696. (AE B) He did not provide proof of his history of payments to the state agency handling his child support.

SOR ¶ 1.m alleges, and Applicant admitted, a judgment was entered against him in 2018 for about $3,398. He did not provide information on the status of the debt. (Tr. 67)

SOR ¶ 1.n alleges, and Applicant admitted, in about October of 2021, he was charged with Felony Grand Larceny. Applicant said he took a quartz rock from his sister's residence for the spirituality of the rock, and he put it in the back of his truck. (Tr. 48-52) Some books "mentioned how various colors of quartz or things of that nature can help out with clearing your space and things like that." (Tr. 53) His sister filed a complaint with the police alleging theft. (Tr. 48-49) The police took the rock from Applicant's truck and arrested him. (Tr. 48-49) He denied that the quartz was stolen. (HE 2) As for his relationship with his sister, "it's been a makeup, apologies back and forth, and that's been cleared out and been paid off." (Tr. 53) Applicant said, "she went and sought to recant her claim. Nothing followed from the incident." (HE 2)

SOR ¶¶ 1.o and 1.p allege, and Applicant admitted, in about February of 2023 and June of 2023, he was arrested for his failure to pay required child support. He was held in custody for several weeks on each occasion.

Applicant was arrested and charged with failure to pay child support, and he denied that he neglected his children. (HE 2) He contended that the court that ordered child support failed to take into consideration his current income, which was much lower than previously, and the court ordered a high-level of child support. (HE 2) At his hearing, he said he was unable to pay his $1,200 monthly child support. (Tr. 54-56) He obtained employment, and he said he has been making monthly child-support payments since he was released from jail in 2023. (Tr. 56-58) He provides about $450 weekly in support to his children. (Tr. 59) As indicated previously, he did not provide the history of his child support payments.

Personal Conduct

SOR ¶ 2.a cross alleges, and Applicant admitted, the conduct set forth in SOR ¶¶ 1.a. through 1.p., above.

SOR ¶ 2.b alleges, and Applicant admitted that he used marijuana on various occasions between at least May of 2019 and February of 2023, including on various occasions while employed in a sensitive position, i.e., one for which he held a security clearance. Applicant said he occasionally used marijuana from 2019 to about January of 2023 while holding a security clearance. (Tr. 74-75)

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 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 an unfavorable decision should be construed to suggest that it is based on any express or implied determination about an applicant's allegiance, loyalty, or patriotism. An unfavorable decision 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. Sept. 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;
>
> (d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust; 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 does not establish the disqualifying condition in AG ¶ 19(d). I have credited Applicant with refuting the allegation in SOR ¶ 1.n, that he was charged with Felony Grand Larceny. He said he took a quartz rock from his sister's residence for the spirituality of the rock, and he put it in the back of his truck. He denied that the quartz was stolen. He said, his sister "went and sought to recant her claim. Nothing followed from the incident." (HE 2)

I have credited Applicant with refuting the allegations in SOR ¶¶ 1.o and 1.p that in about February of 2023 and June of 2023, he was arrested for his failure to pay child support, as required. He was held in custody for several weeks on each occasion. He said he lacked the funds to pay child support in 2023, and the record does not contradict his claim that he was unable to pay his child support at that time. He was not prosecuted for failure to pay child support.

The record establishes the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 19(f), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*. The financial considerations mitigating conditions under AG ¶ 20, 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, Encl. 2 ¶ 2(b).

Applicant admitted he failed to timely file FIT returns for TYs 2016 through 2024. He admitted he failed to timely file SIT returns for TYs 2018 through 2024. He may have filed his FIT and SIT returns before his hearing; however, they were filed late.

I have credited Applicant with mitigation of the debts in SOR ¶¶ 1.h and 1.i, which relate to two accounts placed for collection for two gym memberships for about $263 and $241, respectively. Applicant said that he terminated gym memberships, and the creditors wanted payments for more time. He indicated he does not believe he is responsible for these two debts. These two debts are *de minimis* in the overall context of his finances.

AG ¶ 20(a) does not apply. "It is also well established that an applicant's ongoing, unpaid debts [and history of not timely filing tax returns and paying taxes] demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions." ISCR Case No. 22-02226 at 2 (App. Bd. Oct. 27, 2023) (citing ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017)).

AG ¶ 20(b) does not fully apply. Applicant had periods of unemployment and underemployment. He lived in a different state from his spouse, and maintenance of two households resulted in additional expenses. He was divorced and had a requirement to pay substantial child support. These circumstances do not fully mitigate his financial issues. He did not assert good enough reasons or other circumstances partially or fully beyond his control, which caused him not to timely file multiple FIT and SIT returns and to pay or arrange payment plans to address the debts in SOR ¶¶ 1.c through 1.g, 1.j, 1.k, 1.l, and 1.m.

AG ¶¶ 20(c), 20(d), and 20(e) do not apply. Applicant received some financial counseling through self-study; however, there are not "clear indications that the problem is being resolved or is under control"; he did not demonstrate a "good-faith effort to repay overdue creditors or otherwise resolve debts"; or provide a reasonable explanation for his failure to timely file his overdue FIT and SIT returns. He failed to provide proof of payments, payment plans, written disputes of debts, or other evidence of progress towards debt resolution for the debts in SOR ¶¶ 1.c through 1.g, 1.j, 1.k, 1.l, and 1.m.

Failure to Timely File FIT Returns

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. Regarding the failure to timely file 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). *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. 15-01031 (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 each year. Nevertheless, the Appeal Board reversed the administrative judge's decision to grant access to classified information because the tax returns were not timely filed.

In ISCR Case No. 24-02193 at 5 (App. Bd. Feb. 19, 2026), the Appeal Board said:

> The mere filing of delinquent tax returns or the existence of a payment arrangement with an appropriate tax authority does not compel a Judge to issue a favorable decision. As with the application of any mitigating condition, the Judge must examine the record evidence and decide whether the favorable evidence outweighs the unfavorable evidence, or vice versa. The timing of corrective action is an appropriate factor for the Judge to consider in the application of mitigating condition 20(g) as well as in considering aspects of other overlapping mitigating conditions, such as, in determining whether an applicant acted responsibly under the circumstances, whether an applicant's past financial deficiencies are unlikely to recur, or whether an applicant initiated good-faith efforts to resolve financial problems.

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).

AG ¶ 20(g) is not applicable. Applicant has not provided proof that he filed all required FIT and SIT returns. He does not have an established IRS or SIT payment plan. The amount of taxes owed, if any, is unknown.

Applicant's overall handling of his taxes 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 the evidence was insufficient to establish full mitigation).

Applicant made important progress by filing his FIT and SIT returns; however, they were not timely filed. He failed to prove that he took timely, prudent, responsible, and good-faith actions regarding the financial issues in SOR ¶¶ 1.a through 1.g, 1.j, 1.k, 1.l, and 1.m. His financial behavior raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. *See* ISCR Case No. 23-02412 at 3 (App. Bd. Sept. 9, 2025). Under all the circumstances, and considering the evidence "as a whole," Applicant's financial failures in in SOR ¶¶ 1.a through 1.g, 1.j, 1.k, 1.l, and 1.m are not mitigated.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern, stating:

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. . . .

AG ¶ 16 provides personal conduct conditions that could raise a security concern and may be disqualifying in this case:

> (c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information; and
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> (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:
>
>> (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
>> (2) any disruptive, violent, or other inappropriate behavior;
>> (3) a pattern of dishonesty or rule violations; and
>> (4) evidence of significant misuse of Government or other employer's time or resources.

SOR ¶ 2.a cross alleges, and Applicant admitted, the conduct set forth in SOR ¶¶ 1.a. through 1.p., above. SOR ¶ 2.b alleges, and he admitted that he used marijuana on various occasions between at least May of 2019 and February of 2023, including on various occasions while employed in a sensitive position, i.e., one for which he held a security clearance.

AG ¶ 16(c) does not apply because the adverse information under Guideline F, as discussed in the financial considerations section, is sufficient for an adverse determination. AG ¶ 16(d) does not apply because the adverse information about marijuana involvement and his finances is explicitly covered under Guidelines F and H. Personal conduct security concerns are refuted.

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 commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guidelines F and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is 41 years old, and he is seeking employment as an intelligence analyst subject-matter expert, which requires a security clearance. In 2008, he received an associate degree in intelligence operations and a bachelor's degree in criminal justice and homeland security. In 2005, he joined the ARNG and served as an enlisted soldier until he was commissioned in 2008. He served in the ARNG until about 2015, and he was credited with about eight years of points for duties in various positions. His commissioned branch was military intelligence; he served a tour in Iraq from 2009 to 2010; and he left the ARNG as a captain.

The evidence supporting denial of Applicant's security clearance is detailed in the financial considerations and personal conduct sections, *supra,* and this evidence is more persuasive than the evidence of mitigation at this time.

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*, *Dorfmont*, 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 refuted the personal conduct security concerns; however, he failed to mitigate financial considerations security concerns.

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 continued effort to establish and maintain his financial responsibility, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a through 1.g, and 1.j through 1.m:	Against Applicant
Subparagraphs 1.h, 1.i, and 1.n through 1.p:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	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