



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



In the matter of:)
)
) ISCR Case No. 13-00872
)
Applicant for Security Clearance)

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: *Pro se*

02/24/2014

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

While self-employed as a carpenter, Applicant did not file or pay quarterly estimates of his income tax obligations, federal or state, for tax years 2004 through the first quarter of 2007. When he filed annual returns with his spouse, he could not afford to pay the taxes owed. Around \$83,636 in federal and state tax liens were still outstanding as of 2013. In August 2013, he began repaying the IRS at \$1,480 a month, but it is too soon to conclude that the financial security concerns are mitigated. Clearance denied.

Statement of the Case

On August 22, 2013, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security*

Clearance Review Program (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant answered the SOR allegations on September 13, 2013. On September 20, 2013, he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On November 14, 2013, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for him. On November 26, 2013, I scheduled a hearing for December 16, 2013.

I convened the hearing as scheduled. Department Counsel appeared by video teleconference and Applicant appeared in person. Four Government exhibits (GEs 1-4) were admitted into evidence and 19 Applicant exhibits (AEs A-S) were admitted into evidence without objection. Applicant also testified, as reflected in a transcript (Tr.) received on December 23, 2013. The SOR was amended without objection to reflect that the liens alleged in SOR 1.d and 1.g-1.k were federal tax liens and not state tax liens.

At Applicant's request, I held the record open after the hearing for additional documents. On January 5, 2014, Applicant submitted 16 potential exhibits, which were marked on receipt as AE T-MM. Department Counsel filed no objection to their admission by the January 17, 2014 deadline for comment, so the documents were accepted as full exhibits.

Summary of SOR Allegations

The amended SOR alleges under Guideline F that as of August 22, 2013, Applicant owed a \$3,317 judgment from March 2007 (SOR 1.a); \$83,636 in income tax liens (\$67,516 federal and \$16,120 state) filed between September 2005 and February 2012 (SOR 1.b-1.d and 1.f-1.m); and a medical debt of \$810 (SOR 1.e). In addition, Applicant had failed to pay federal and state taxes for at least tax years 2004 through 2007 and 2011 (SOR 1.n). Applicant admitted all the debts except the judgment in SOR 1.a. He explained that payment arrangements had been made for all the debts.

Findings of Fact

Applicant's admissions to the delinquent tax and medical debts are accepted and incorporated as findings of fact. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact.

Applicant is a 47-year-old field installer for a defense contractor. He began working for the company in mid-November 2010 on their commercial projects, after being unemployed for over two years. Applicant seeks a DOD Secret clearance so that he will no longer need an escort to work in secured areas on federal projects. (GE 1; AE A.)

Applicant and his spouse have been married since January 1985. They bought their home around July 1997. They have two sons and two daughters, who are now ages 28,

27, 25, and 22. (GE 1.) As of December 2013, their 27-year-old son was living at home after his recent discharge from the U.S. military. They are not currently asking him for financial support. (Tr. 51.)

Applicant had his own carpentry business out of his home from April 1994 to April 2007. Along with his son and another employee of his company, he framed houses as a subcontractor for a residential builder. (GE 1; AE L.) He cared for his parents financially, including paying between \$7,000 and \$9,000 each for their funerals. (Tr. 49.) After his father's death in 1999, he provided around \$1,000 a month to his mother for her utility bills and groceries until she passed away in 2006. (Tr. 43-44, 49-50.)

For tax years 2004 through 2007, Applicant earned about \$50,000 annually from his home-based carpentry business. (Tr. 46-47.) Around March 2007, a creditor of his business was awarded a \$3,316 default judgment against Applicant (SOR 1.a). (GE 4.) Applicant did not show in court because he had paid the debt before the judgment. His payment was apparently not properly recorded. (AE R; Tr. 57-58.)

Applicant did not estimate or pay income taxes quarterly to the IRS or his state for 2004 through 2007. He was "young and dumb, thinking [he] would have that money next week, but it didn't happen." (Tr. 60.) When he and his spouse submitted their joint tax returns for at least those years, they did not have the funds to cover their federal and state tax liabilities.¹ (GE 1.) State tax liens of \$964 (SOR 1.e) and of \$1,819 (not alleged in SOR) were filed against Applicant in September 2005 and November 2005. The latter lien was released the same month it was filed. (GE 3.)

Due to a downturn in contracts in the slow economy, Applicant in April 2007 began working for another building contractor at an hourly wage of \$25. He managed to secure work at the company for his son and their other employee as well. (AE L.) In April 2007, the IRS filed a \$6,174 tax lien (not alleged in SOR) against Applicant. After the IRS attached almost all of his and his spouse's bank deposits, they began to pay the IRS \$100 a month. (Tr. 654-65.) Before the \$6,174 lien was released in August 2008 (GE 3), the IRS filed two tax liens against them, of \$16,523 (SOR 1.j) and \$551 (SOR 1.f) in October 2007. In December 2007, the IRS filed a \$19,065 lien (SOR 1.k). In January 2008, the IRS filed three tax liens against them, of \$24,589 (SOR 1.g), \$4,746 (SOR 1.h), and \$151 (SOR 1.i). In September 2008, Applicant lost his job when his employer ceased operations. (Tr. 46.)

Applicant was unemployed for over two years. He was paid unemployment compensation around \$500 a week (Tr. 47) and could not afford to make any payments toward his delinquent federal or state taxes. In February 2009, the IRS filed a lien of \$2,442 against Applicant and his spouse (SOR 1.d).

¹ Applicant listed on his September 2012 Electronic Questionnaire for Investigations Processing (e-QIP) that he did not file quarterly estimates of his income while self-employed from 2004 through 2007 and in 2011, and that he owed taxes for those years. However, with respect to 2011, he was already working for his current employer. When asked at his hearing whether 2004 through 2007 were the years for which he still owed taxes, Applicant responded that he did not know. (Tr. 52.)

In November 2010, he began working for his current employer. (GE 1.) Applicant earned about \$50,000 in annual wages his first year in his current job. Since then, he has averaged around \$60,000 annually because of overtime earnings. (Tr. 48.) Applicant and his spouse had fallen behind on some credit card accounts starting around 2006, and they gave priority to those debts and other living expenses when Applicant resumed employment. (Tr. 54, 67.) Old tax liens went unpaid, and new liens continued to be filed against Applicant and his spouse. In July 2011, the state filed a \$4,015 tax lien (SOR 1.m). In December 2011, the state filed a \$3,041 tax lien (SOR 1.c). In February 2012, the IRS filed a \$7,513 tax lien (SOR 1.b).

On September 30, 2012, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP) for DOD security clearance eligibility. In response to the financial record inquiries, Applicant admitted that he had failed to pay federal and state taxes within the last seven years. Based on tax liens and very recent statements of accounts, he indicated that he owed the IRS estimated business and personal taxes of \$18,534 for 2004, \$27,456 for 2005, \$22,154 for 2006, and \$1,906 for 2007. He also reported a state tax debt around \$14,605 for unknown tax years based on a tax lien filed in 2011. Applicant explained his federal tax delinquency as follows:

I was on a payment arrangement and when I lost my job in 2007 there was not enough money coming into the household to maintain the utilities and provide food so the IRS agent my wife is working with suspended the payment arrangement until a time when I can maintain my household and set up an appropriate payment arrangement. There is a current tax lien on the property. Now that I am getting back on my feet we are going to get back on a repayment arrangement. (GE 1.)

As of October 23, 2012, Applicant had 13 tax liens on his record. Eleven of them totaling \$83,636 had not been released. A judgment of \$3,316 from January 2007 was listed several times with its status reported as "unknown." Applicant owed an aggregate \$1,405 on three credit card accounts, rated as current, and \$810 in medical debt in collection since February 2011 (SOR 1.e). A credit card debt of \$1,400, on an account on which he was an authorized user, was paid after collection. Applicant had been late on some other accounts in the past, which had zero balances. (GE 4.)

On November 13, 2012, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM), partially about his tax debts and other financial issues. Applicant indicated that he had paid the creditor awarded the judgment in SOR 1.a before the case went to court. Applicant explained that the \$14,605 state tax lien was the sum of three state tax liens (SOR 1.b, 1.c, and 1.m). Applicant denied knowing about the two tax liens, of \$1,819 and \$6,174, which had been released, or about two smaller state liens of \$964 (SOR 1.l) and \$551 (SOR 1.f). Applicant acknowledged the federal tax liens of \$2,442 (SOR 1.d), \$24,589 (SOR 1.g), \$4,746 (SOR 1.h), \$16,523 (SOR 1.j), and \$19,065 (SOR 1.k). Applicant did not recognize the \$151 federal tax debt (SOR 1.i) or the medical debt in collection (SOR 1.e). He added that he and his spouse had been contacted by the IRS about arranging to repay \$18,534 for 2004, \$27,456 for

2005, \$22,154 for 2006, and \$1,096 for 2007. The IRS agreed to defer establishing a repayment plan until Applicant and his spouse's financial situation became stable enough to address their federal tax debts. They had heard nothing from the state about their late taxes. His spouse, who handled the family's finances because of his travel schedule, would be contacting the state to establish a payment schedule. Applicant indicated that no one would question his ability to live within his means or his willingness to pay his debts. However, Applicant admitted to the investigator that his ability to repay his debts can be questioned because of his substantial tax liabilities. (GE 2.)

As of July 5, 2013, Equifax was reporting four unpaid tax liens, totaling \$17,047, on Applicant's credit record (SOR 1.b-1.d and 1.m). No progress was reported regarding the resolution of the \$3,317 judgment (SOR 1.a) or the \$810 medical debt in collection (SOR 1.e). (GE 3.) On July 24, 2013, after he received DOD interrogatories about the status of his past-due debts, Applicant and his spouse authorized the IRS to electronically debit their checking account. They had arranged with the IRS to pay \$1,480 per month. (GE 2.) From August 30, 2013 through December 30, 2013, the IRS debited \$7,400 from Applicant and his spouse's bank account and applied the funds to their federal tax debt for 2004. (AE Q; LL.)

Applicant's account with the creditor awarded the judgment in SOR 1.a was "in good standing with no balance" as of July 24, 2013. (GE 2; AE R.) On July 26, 2013, Applicant and his spouse made the first of \$101.25 monthly payments toward the medical debt in SOR 1.e, to continue until the debt is satisfied in full. (GE 2; AE S.) As of mid-November 2013, Applicant's spouse had made five \$101.25 payments. (AE S.) With the federal tax payments of \$1,480, estimated state tax payments around \$500, and \$101.25 toward the medical debt, Applicant calculated his disposable monthly household income at \$704.90 before miscellaneous expenses. (GE 2.)

On July 30, 2013, Applicant's spouse proposed to the state \$500 monthly payments toward the delinquent state taxes. (AE JJ.) On September 12, 2013, the state department of revenue notified Applicant and his spouse that they owed taxes of \$2,908.72 for 2004, \$3,729.58 for 2005, \$4,023.53 for 2006, and \$242.90 for 2007. On January 2, 2014, Applicant's spouse again requested that the state agree to accept payments for the back taxes. (AE II.) On January 3, 2014, the state asked for a financial statement before a payment plan could be approved. (AE KK.) On January 5, 2014, Applicant and his spouse paid off their \$242 state tax debt for 2007. (AE MM.)

Applicant's take-home pay averages \$1,400 weekly, although it fluctuates depending on overtime and the nature of the work. Prevailing wage jobs and government contract work are paid at higher rates. (Tr. 69, 73.) He estimates his monthly disposable income at \$1,000 after the federal tax payment. (Tr. 78.) The ending balance of Applicant and his spouse's checking account was \$1,853 as of October 2013 (AE Z), \$908 as of November 2013 (AE AA), and \$1,094 as of December 2013. (AE BB.)

Applicant's spouse of 29 years has worked part-time at a hardware store over the last seven years, earning less than \$10,000 annually. She had no medical insurance in

July 2010, when she was diagnosed with a serious medical condition. Applicant and his spouse incurred medical costs for her surgery while he was unemployed. (AE L.) Applicant does not recall the amount, and he was not willing to speculate. (Tr. 50-51, 53.) Applicant's spouse continued to have medical issues. At the end of 2012, she was out of work for two or three months. She returned to work part-time and brought into the household only about \$330 every two weeks. As of December 2013, Applicant's spouse was hoping to collect worker's compensation following tendon surgery in mid-November 2013. (AEs V, W; Tr. 62-63.)

Character References

Applicant's work as a field installer requires 85% travel away from the office. He is often the face of the company with their customers. He excelled in managing the various skills required of his position (construction installation, paperwork, customer interaction) to where a project manager gave him the opportunity to work on federal projects, most of which required a minimum of a DOD Secret clearance. The company has had to coordinate and contract with a third party to escort Applicant in secured areas. Applicant's supervisor recommends him for security clearance eligibility (AE A.)

A material supply manager, to whom Applicant reported for two years, considers Applicant to be a valuable resource. Applicant has been extremely reliable, conscientious in following through with his projects, and receptive to learning new responsibilities promptly. (AE B.) An inspector at work, who was a classmate of one of Applicant's sons, has spent a fair amount of time with Applicant. Applicant pays attention to detail and is a hard worker. (AE C.)

Friends and neighbors also hold favorable opinions of Applicant's judgment, trustworthiness, and leadership. (AEs D, F-I, O.) Applicant has served as a board member in a local bowling association. Together with the league treasurer/secretary, Applicant controlled and dispensed league funds and organized bowling leagues and tournaments. (AEs D, I.)

Applicant's younger son served as an intelligence analyst in the United States military before his recent discharge. He is aware that Applicant worked on jobsites with restricted access. Applicant advised his son that he did not ask escorts for any details about activities that did not affect him or his job. Applicant never tried to obtain classified or sensitive information from his son. Applicant's son "wholeheartedly believe[s] that [his] father would sooner die than betray his family or his country." (AE E.)

Applicant has a son-in-law who is a combat veteran. Applicant has shown him no reason to distrust him. He believes Applicant would never compromise the security of his family or the country. (AE Y.) Applicant's other son-in-law, who is married to Applicant's younger daughter, owns his own framing company, after having started in the business as an employee of Applicant's seven years ago. (AE J.) Applicant is known among his immediate family members to possess great integrity; to be extremely hard working; always willing to help someone needing a hand, often without being asked; and dedicated to his

family and his country. (AEs J-N, X.) Applicant took a young woman into their home when she needed a place to stay, despite not knowing her very well. (AEs L, O.) A mother herself now, she looks up to Applicant as if he were her own father. (AE O.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18:

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

Guideline F articulates several conditions that could raise security concerns. AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," are implicated by Applicant's record of income tax delinquency, as alleged in SOR 1.b-1.d and 1.f-1.m, and by the \$810 medical debt in collection since February 2011 (SOR 1.e). Between April 2007 and February 2012, the IRS filed nine tax liens against Applicant totaling \$81,754. Only one federal tax lien, of \$6,174, has been released. In 2005, the state filed two tax liens against Applicant, of \$964 and of \$1,819 (not alleged). The \$1,819 lien was reportedly released shortly after it was issued. In 2011, the state filed tax liens of \$4,051 and \$3,041. Available credit record information indicates \$83,636 in outstanding federal and state tax lien debt. Based on statements and lien notices he had received as of September 30, 2012, Applicant estimated his tax delinquency at \$83,845 (\$69,240 federal and \$14,605 state). A notice from the state dated September 12, 2013, shows Applicant's state tax debt totals \$10,904.73 for 2004 through 2007. (AE MM.) The lien evidence, state tax record, and Applicant's admissions establish the tax delinquency. They also establish the failure to pay his federal and state taxes for 2004 through 2007, as partially alleged in SOR 1.n. The failure to pay taxes for those years does not provide a separate basis for disqualification under SOR 1.n, however, because the tax debts are covered by the liens. The Government did not prove that Applicant failed to pay his taxes for 2011 as also alleged in SOR 1.n. The state could have filed tax liens in 2011 for taxes owed from previous tax years.

Applicant disputes the judgment debt (SOR 1.a) on the basis that it was paid. Equifax Information Services continued to report the judgment as recently as July 2013 with no indication that it has been paid. (GE 3.) The judgment creditor conversely indicates that as of July 24, 2013, Applicant's account was in good standing with no balance owed. (GE 3.) The creditor did not indicate when the debt was paid, but it tends to disprove that Applicant still owed the judgment as of the issuance of the SOR in August 2013.

Based on the federal tax lien information and the state tax record, Applicant's tax delinquency accrued to around \$86,000. It is unclear whether any of the federal debt was for years other than 2004 through 2007, or whether some of the federal tax liens cover the same tax years. Even if the debt was incurred "so long ago" in that the taxes were last due over five years ago, mitigating condition AG ¶ 20(a), "the behavior happened so long ago,

was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment," cannot reasonably apply when most of the debt remains unresolved. Only a \$242 state tax delinquency from tax year 2007 has been fully satisfied, and with respect to that debt, it is unclear whether it was included in the 2011 state tax liens in SOR 1.c and 1.m. Applicant's payments of \$1,480 per month to the IRS since late August 2013 have been applied to his federal tax debt for 2004, which was about \$18,534 as of late September 2011, so he still owes a substantial balance for that year.

Mitigating condition AG ¶ 20(b), "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances," is partially implicated. Medical debt is usually not discretionary. The \$810 debt was incurred in October 2010, when he was unemployed. Applicant went to work shortly thereafter, and his spouse handled the finances. He did not know about the debt. Applicant's tax debt was within his control. It is attributable to his failure to pay estimated taxes quarterly when he was self-employed between 2004 and 2007. When he filed his tax return for that year, he did not have the funds to pay his taxes. The slowdown in residential building had an impact on his carpentry business by 2007, but AG ¶ 20(b) does not fully mitigate his failure to set aside some funds to cover his tax obligations. AG ¶ 20(b) mitigates some of the delay in addressing his tax delinquencies. Applicant was laid off from his job with a building contractor in September 2008, and he was unemployed until November 2010. Applicant understandably gave priority to his family's living expenses when he was unemployed. However, even allowing for some time for Applicant to address some past-due consumer credit accounts that had fallen delinquent when he was out of work, he knew as of his September 2012 e-QIP that he owed more than \$83,000 in delinquent federal and state taxes. It is difficult to find that Applicant handled his tax matters responsibly when there is no evidence of any contacts with the IRS or the state before July 2013. Applicant's spouse had some medical issues that kept her out of work, but it would not have prevented Applicant or his spouse from contacting the IRS to resume their former payments or make new repayment arrangements in the 18 months before July 2013.

AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," and AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," both address efforts to resolve financial issues of security concern. After the IRS attached their bank account around 2007, Applicant and his spouse paid the IRS \$100 a month until he lost his job in September 2008. In November 2010, he began working at his present job at an annual income of \$50,000. Applicant's monthly payments of \$101.25 toward the medical debt since late July 2013, and of \$1,480 to the IRS since August 2013, show some good faith toward his creditors, even if they were very belated and prompted by the DOD interrogatories. Applicant is not required to pay off each of his delinquent balances before he can be granted security clearance eligibility. It is enough that he have a credible plan in place and that he has taken significant steps to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant has made enough payments toward the medical debt to eliminate the concerns about that collection account. On the other hand, five \$1,480 payments to the IRS and one \$242 payment to the state are not enough to adequately mitigate the security concerns under AG ¶ 20(c) or AG ¶ 20(d) raised by tax delinquency around \$78,842 as of January 2014.

AG ¶ 20(e), “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue,” applies to the judgment debt in SOR 1.a. The judgment was shown to no longer be a valid debt as of the issuance of the SOR in August 2013.

Whole-Person Concept

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).²

Applicant did not pay his taxes when he had his own carpentry business from 2004 to 2007. Whether due to mismanagement of his personal financial affairs, or his business expenses, or both, Applicant did not set funds aside to pay his income taxes. A review of recent utility bills shows that Applicant is not behind in his day-to-day expenses. He presented several work and personal references, who uniformly attest to his reliability at work and at home. Applicant has not allowed his tax matters to negatively affect his work performance or his dedication to his duties. Nevertheless, it is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). In light of the delay in addressing his very delinquent tax liabilities, and with about \$78,842 still outstanding, Applicant needs to demonstrate a longer record of tax payments before I can be assured that his financial problems are in the past and not likely to recur. Under Applicant’s current circumstances, grant of a security clearance is not warranted at this time.

Formal Findings

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

² The factors under AG ¶ 2(a) are as follows:

- (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.

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

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge