



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



In the matter of:)
)
) ISCR Case No. 14-00025
)
Applicant for Security Clearance)

Appearances

For Government: Stephanie C. Hess, Esq., Department Counsel
For Applicant: *Pro se*

06/26/2014

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

While working as a self-employed consultant, Applicant did not timely file his federal or state income tax returns, or pay quarterly estimates of taxes owed, for tax years 2011 and 2012. He filed his delinquent returns in April 2014, reporting \$65,367 in federal taxes and \$14,314 in state taxes owed for those years. He cannot explain why he did not report his known tax delinquencies on his June 2013 security clearance application. Financial considerations persist because he still owes the Internal Revenue Service (IRS) about \$53,367 in delinquent taxes, and an estimated \$4,000 in past-due state taxes. Personal conduct concerns are not fully mitigated, despite his candor about the taxes during his July 2013 interview. Clearance is denied.

Statement of the Case

On February 13, 2014, 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 Guideline E, Personal Conduct, 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.

On March 25, 2014, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 16, 2014, Department Counsel provided discovery of the Government's potential exhibits to Applicant. On May 13, 2014, 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 May 15, 2014, I scheduled a hearing for June 3, 2014.

I convened the hearing as scheduled. Three Government exhibits (GEs 1-3) and nine Applicant exhibits (AEs A-I) were admitted into evidence without objection. Applicant also testified, as reflected in a transcript (Tr.) received on June 11, 2014.

Summary of SOR Allegations

The SOR alleges under Guideline F that as of February 13, 2014, Applicant had not filed his federal income tax returns (SOR 1.a) or his state income tax returns (SOR 1.c) for tax years 2011 and 2012. In addition, he owed around \$50,000 in delinquent federal taxes (SOR 1.b) and an undetermined amount of state taxes (SOR 1.d) for 2011 and 2012. Under Guideline E, Applicant is alleged to have falsified his June 2013 Electronic Questionnaire for Investigations Processing (e-QIP) by responding negatively to whether he failed to file or pay any federal, state, or other taxes within the last seven years (SOR 2.a).

When he answered the SOR allegations, Applicant admitted that he failed to timely file his federal and state income tax returns for tax years 2011 and 2012 due to the uncertainty of his tax situation pending his divorce. However, he had retained professional accounting services to file those delinquent returns, and he was working with a tax attorney to establish repayment plans. Applicant denied that he falsified his e-QIP.

Findings of Fact

Applicant's admissions to the delinquent tax returns and tax 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 49-year-old principal project engineer, who has worked full-time for a defense contractor since May 2013. He worked for the company part time as a self-employed consultant from 2009 to May 2013. Applicant seeks his first DOD security

clearance so that he can access federal buildings and military installations to install and maintain cybersecurity equipment. (GEs 1, 2; Tr. 50.)

Applicant was awarded his bachelor's degree in December 1987. (GE 1.) He also earned three associate degrees between 1995 and 1999. (GE 2.) From January 1989 to October 2008, Applicant worked as a vice president in marketing and product management. In October 2008, his employer ceased operations, and Applicant and a co-owner started their own consulting firm. Applicant provided consulting services for several companies, including his current employer. (GE 2.) Applicant was required to file and pay quarterly estimates of his income taxes. (Tr. 33.)

Applicant and his ex-wife divorced around April 2011, after 18 years of marriage and two children. Their daughter was 16 and their son was 13 when they divorced. (GE 1.) Applicant failed to pay estimated taxes in 2011 on earned business income of \$164,973. (AEs D, E; Tr. 33.) He did not file his federal and state income tax returns for tax year 2011 when they were due in 2012. (GE 2.)

Applicant did not pay estimated taxes on \$160,236 in business income in 2012 as well. When his tax returns for that year came due in April 2013, Applicant had other priorities, such as "getting [his] act back together . . . and starting [his] life over again as a single man" (Tr. 56), and he neglected to file his federal and state income tax returns.¹ (GE 2.)

In May 2013, Applicant began full-time employment with a defense contractor. (GE 1.) On June 3, 2013, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP). He responded "No" to all the financial record inquiries, including whether he had failed to file or pay federal, state, or other taxes in the last seven years. (GE 1.) At his hearing, Applicant had no explanation for his failure to list his known tax delinquencies other than he "misinterpreted the question." (Tr. 45.)

As of June 11, 2013, Applicant's credit record showed a \$422 charged-off credit card debt in dispute. He was paying timely payments on a \$276,072 mortgage balance and on three credit card accounts with balances of \$7,611, \$4,624, and \$253. He owed no other consumer credit debt. (GE 3.)

On July 1, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). When reviewing his e-QIP with the investigator, Applicant responded "Yes" to whether he had any financial delinquency involving routine accounts. He had responded "No" on his e-QIP due to "oversight," and explained that a credit card account was in collection for \$500 (i.e., the \$422 charged-off debt on his credit record). He had a credit balance on the account because of overpayment, and he assumed that the credit would be applied to new charges. Applicant disputed the late charges, but he intended to pay for the items he purchased. Within two weeks of his interview, Applicant settled the debt for \$200. (GE 2.)

¹ There is no evidence that Applicant requested an extension of time to file his returns.

When asked by the interviewer whether he had failed to file any federal taxes, Applicant disclosed that he had not paid self-employment taxes in 2011 and 2012 due to “oversight.” Applicant expressed his intent to establish a payment plan to resolve estimated federal tax debt of \$30,000 for 2011 and \$20,000 for 2012. Applicant indicated that he was making quarterly tax payments in 2013. Applicant’s explanation for not listing his federal tax debt on his e-QIP was “oversight.” (GE 2.)

On October 2, 2013, the DOD CAF asked Applicant about his federal income tax delinquency for tax years 2011 and 2012. In his November 6, 2013 response, Applicant admitted that the tax debts had not been paid, and that he had not yet filed his income tax returns for those years. He explained his failure to file timely returns, as follows:

Due to transition in employment and a lengthy divorce process, I omitted my return in 2011, and am currently working with a tax attorney and IRS to resolve this issue that includes making payments on estimated tax while return is being processed.

Applicant also admitted that he was delinquent in filing returns and paying state taxes for tax years 2011 and 2012. He provided the DOD CAF with an undated IRS Form 9465, Installment Agreement Request,² which reportedly had been sent to the IRS. He proposed to repay his estimated \$30,000 in delinquent federal taxes for 2011 at \$1,000 a month. Applicant also provided the DOD CAF with evidence of state tax payments of \$500 on October 23, 2013, for 2012 and of \$400 on November 5, 2012, for 2011, and of a state tax billing of \$903.12 due December 3, 2011.³ Applicant completed a Personal Financial Statement on October 10, 2013, showing monthly net discretionary income of \$2,062 after paying his expenses, including alimony/child support of \$3,150 per month, but no delinquent tax payments. Among his assets, he had \$25,000 in bank savings and \$120,000 in stocks/bonds. (GE 2.)

Applicant received no response from the IRS to his installment agreement request. (Tr. 36-37.) He made no effort to follow up, and he made no tax payments to the IRS. In late 2013 or early 2014, Applicant decided to resolve his delinquent tax filing situation before he was audited and penalties and other charges were assessed.⁴ (Tr. 42.) He hired

² Applicant testified that he completed the IRS form in November 2013. (Tr. 38.)

³ Applicant testified that when he received notices of tax debt, he paid them. He had not received any tax notices “in a couple years.” (Tr. 37-38.) About the notices, Applicant later indicated that the notices were for federal taxes. Specifically, he received a payment request for a past-due federal tax debt of \$902 for 2011. (Tr. 54.) In response to interrogatories (GE 2), he submitted a bill from the state showing \$903.12 due by December 3, 2011. When he answered the SOR, he provided evidence of a state tax payment of \$876.57 on March 25, 2014. It appears that the state pursued collection rather than the IRS.

⁴ Applicant testified about his motivation, as follows:

I mean, I'll be completely honest; it was, you know, nothing associated with the security, my security clearance. I just wanted to make good on my situation because I just realized and at some point I would be audited, and then it would just result in additional charges and penalties associated with that. So last year, I, you know, I got myself back together. The

a tax accountant to prepare his delinquent returns. (Tr. 43.) On March 25, 2014, he made a state tax payment of \$876.57 on a tax bill delinquent since August 2011. (Answer.)

Applicant's delinquent federal and state income tax returns were completed on April 1, 2014. For tax year 2011, Applicant filed as head of household and claimed both of his children as dependents. On federal adjusted gross income of \$140,089, he owed about \$32,936 in federal income taxes (AE D) and \$7,315 in state income taxes. (AE E.) For tax year 2012, Applicant filed as head of household with one dependent. On federal adjusted gross income of \$135,235, he owed about \$32,431 in federal income taxes (AE F) and \$6,999 in state taxes. (AE G.) In April 2014, Applicant paid the IRS and the state \$6,000 each toward his delinquent taxes. (AE B.)

On April 15, 2014, Applicant completed his federal and state income tax returns for tax year 2013. On federal adjusted gross income of \$125,442, including \$94,385 in wage earnings from his defense contractor employment, Applicant underpaid his federal income taxes by \$6,661 (AE H) and his state income taxes by \$5,333. (AE I.) On the advice of his tax attorney, Applicant paid the taxes owed for 2013 on April 20, 2014. (AE B; Tr. 35.)

On June 2, 2014, Applicant registered with the IRS to repay his federal tax delinquency in installments. The process to begin electronic payments was not yet complete as of his security clearance hearing. (AE C; Tr. 37-39.) He plans to pay a minimum of \$1,500 to \$2,000 a month, using his savings. (Tr. 40, 49.) Of his \$65,367 in federal tax debt for 2011 and 2012, Applicant initially testified that he owes about \$21,000 for 2011 and \$23,000 for 2012. He later testified that he had made about \$12,000 in delinquent tax payments to the IRS as of early June 2014. (Tr. 62-63.) Available payment information corroborates payments only totaling \$6,000 to the IRS and state tax payments of \$4,276.57 for 2011 and \$3,500 for tax year 2012, short of the taxes due on his returns. (GE 2; AE B; Answer.) If he made \$12,000 in delinquent federal tax payments since April 2014, he still owes about \$53,367 to the IRS, which does not include any penalties or interest on the debt. (Tr. 55, 63.) Applicant owes an estimated \$4,000 in past-due state income taxes. (Tr. 35.) Applicant plans to fully satisfy his delinquent federal and state taxes by the end of 2014 with savings from an investment account balance of \$100,000. (Tr. 59, 63.)

Applicant has always paid his mortgage and child support on time. He is current on all his accounts, except the 2011 and 2012 income taxes. (GE 3; Tr. 48.)

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

divorce was finalized. I was making money again, you know, got my new home and everything. So it was like, okay, now it's time to make restitution on my situation. (Tr. 42.)

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 concerns about Financial Considerations are set forth 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.

While he was a self-employed consultant, Applicant did not make estimated federal or state income tax payments in 2011 or 2012, and the deadlines for filing his returns passed without any effort to comply on his part. Delinquent tax returns filed in April 2014 show that he owed \$32,936 in federal taxes and \$7,315 in state taxes for 2011, and \$32,431 in federal taxes and \$6,999 in state taxes for 2012. Disqualifying conditions AG ¶ 19(c), “a history of not meeting financial obligations,” and AG ¶ 19(g), “failure to file annual Federal, state, or local income tax returns as required or the fraudulent filing of the same,” are established because of Applicant’s record of delinquent income tax filings and tax debt.

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. The tax years involved are recent, and Applicant still owes about \$57,000 in past-due income taxes, excluding any interest or penalties.

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. Applicant told the OPM investigator in July 2013 that he did not file or pay self-employment taxes in 2011 and 2012 due to “oversight.” In response to the DOD CAF interrogatories, Applicant attributed his failure to file his 2011 returns “to transition in employment and a lengthy divorce process.” When he answered the SOR, Applicant explained that his failure to file timely tax returns for 2011 and 2012 was because of the uncertainty of his tax situation during his divorce. Apparently, there were issues involving claiming his children as dependents and separation of income yet to be determined. (Tr. 33.)

Applicant’s divorce, which was finalized in April 2011 (see GE 1), could have led to some uncertainty about his taxes, but those issues should have been resolved by the April 2012 deadline for filing his tax returns for 2011. His divorce cannot reasonably explain his failure to pay estimated taxes in 2012 or to file his income tax returns when they were due. When asked about the delay, Applicant testified that he was “starting [his] life over again as a single man.” Applicant had an obligation to comply with his tax obligations, including requesting an extension to file for the time needed to clarify any remaining confusion over his tax situation. Applicant’s delinquency was within his control, and he did not act reasonably by waiting until the last quarter of 2013 to address his tax obligations. So, AG ¶ 20(b) applies only to the extent that it explains his failure to pay his estimated taxes around the time of his divorce.

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. Applicant provided documentation of state tax payments of \$500 in October 2013 toward his 2012 taxes and \$400 in November 2013 toward his 2011 taxes. The timing of these tax payments, after his subject interview and DOD CAF interrogatories, makes it

difficult to believe his testimony that he was not motivated by the security clearance process. However, Applicant is credited with retaining the services of a tax attorney and an accountant in late 2013 or early 2014, and eventually filing his delinquent federal and state tax returns in April 2014. AG ¶ 20(c) and AG ¶ 20(d) apply in mitigation of the security concerns set forth in SOR 1.a and 1.c regarding his failure to file his income tax returns on time.

Concerning his delinquent tax liabilities (SOR 1.b and 1.d), Applicant is credited with paying \$6,000 each to the IRS and the state for his back taxes in April 2014. He testified without corroboration of an additional \$6,000 paid to the IRS since then. (Tr. 62-63.) Applicant is not required to fully satisfy his delinquent taxes 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). Despite sizeable payments toward his tax debts lately, including full payment of his taxes owed for 2013, Applicant still owes \$53,367 in delinquent federal taxes, if not more, depending on penalties and interest. On June 2, 2014, Applicant started the process to enroll in an installment payment plan with the IRS. He testified about his intent to pay at least \$1,500 to \$2,000 a month toward his past-due federal taxes, which would not be enough to meet his expectations of settling his federal tax debt by the end of 2014. Applicant has an investment account worth about \$100,000, which could provide a source of funds for payment of his tax debts. Yet, Applicant also did not follow up with the IRS about his previous request to enter into an installment agreement. With no payment plans in place at this time with the IRS or the state, it would be premature to fully mitigate the financial concerns raised by his sizeable tax debt under either AG ¶ 20(c) or AG ¶ 20(d).

Guideline E, Personal Conduct

The security concerns about Personal Conduct are set forth in AG ¶ 15:

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.

The SOR alleges, in part, that Applicant falsified his June 2013 e-QIP by responding "No" to whether he had failed to file or pay federal, state, or other taxes when required by law or ordinance in the last seven years. Applicant denied that he knowingly falsified his response. Under ¶ E3.1.14 of the Directive, the Government has the burden of establishing facts alleged in the SOR which have been controverted. Even so, a reasonable inference of deliberate falsification arises because Applicant knew that he had not filed with his federal and state income tax obligations for tax years 2011 and 2012 when he completed his e-QIP. Applicant may rebut this inference with persuasive evidence showing that his

negative response to the tax inquiry was due to oversight, honest mistake, or other cause indicating that it was not deliberate.

When reviewing his e-QIP with an OPM investigator on July 1, 2013, four weeks after he completed his e-QIP, Applicant explained that he answered “No” to the tax delinquency question due to oversight. On November 6, 2013, Applicant verified the accuracy of the summary of his interview, which included his attribution to oversight for the e-QIP omission. When Applicant responded to the SOR in March 2014, he denied the falsification of his e-QIP, stating as follows:

I deny the assumption that my e-QIP answers resulted in follow-on requests for additional financial information since my original e-QIP submittal. I do not have a copy of my report, however, I did receive a request for more info on my taxes (and submitted the response) on 11/17/13 which would indicate that my original response triggered the request for this information. If this is not true, then I would state that I misread the question, but I assume that my truthful answer was the basis for the secondary questionnaire.

When questioned on cross-examination at his hearing about the alleged falsification, Applicant admitted that he was aware of his back taxes. He claimed that he misinterpreted the question on his e-QIP. He did not elucidate what it was about the inquiry that led to the negative response other than to indicate that he believed that he somewhere answered “Yes” to the question, which then led to his situation being flagged. (Tr. 45-46.) AG ¶ 16(a), as set forth below, applies if the omission of the tax delinquency from his e-QIP was deliberate:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

In evaluating Applicant’s intent, I am required to consider Applicant’s answers in light of the entire record. See, e.g., ISCR Case No. 12-02296 (App. Bd. Mar. 12, 2014, citing ISCR Case No. 12-12172, App. Bd. Jan. 9, 2014). There is no evidence that Applicant completed another version of the e-QIP containing an affirmative response to the tax inquiry. Applicant’s candor about his tax debts during his subject interview appears to be the disclosure which Applicant believes led to his security clearance eligibility being questioned. His disclosure to the interviewer could indicate a lack of intent to conceal information, including from his e-QIP. It could instead be an effort at rectification, as contemplated within AG ¶ 17(a), “the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” Applicant claims oversight on the one hand and misinterpretation on the other. Oversight suggests neglect while misinterpretation requires attention. His failure to provide a consistent, credible explanation for his failure to disclose his known, very substantial, and current tax delinquencies on his e-QIP, makes it difficult to conclude that his e-QIP

omission was due to honest mistake, inadvertence, or other cause negating willful intent. DC ¶ 16(a) applies.

Applicant made a prompt disclosure to the OPM investigator of his then ongoing failure to file his income tax returns and pay his delinquent tax debts. There is no indication that Applicant revealed his tax issues upfront, before he was asked about his e-QIP response. Nonetheless, there is no evidence that he had to be confronted with the information. AG ¶ 17(a) applies in mitigation.

AG ¶ 17(c), “the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment,” is difficult to establish for several reasons. Knowing omission or falsification of relevant inquiry on the e-QIP is serious because it casts doubt on a person’s judgment, reliability, and trustworthiness. His June 2013 e-QIP is relatively recent, and his reform is incomplete without a credible explanation and acceptance of responsibility for the e-QIP omission. In response to the SOR, Applicant expressed his assumption that a truthful answer on his e-QIP led to the inquiry from the DOD CAF about his taxes. At his hearing, when he had the e-QIP before him, he initially claimed he misinterpreted the question. He then indicated that he had no explanation for why he answered “No,” but he had answered “Yes” somewhere. (Tr. 46.) Under the circumstances, I cannot fully apply either AG ¶ 17(c) or AG ¶ 17(d):

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant’s recent candor about his taxes is viewed favorably, but for the reasons noted, it does not fully mitigate the personal conduct concerns.

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).⁵

Applicant did not pay his taxes or file his returns for tax years 2011 and 2012 on time. While complying with his tax obligations as a self-employed consultant may have

⁵ 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.

been a learning experience for him, he is a college graduate who should have realized the importance of filing his returns and paying taxes owed. He exhibited unacceptable complacency (i.e., paying estimated taxes was “you know, one of those things, it just became delinquent on [him]”) in that he was content to pay taxes when pursued, but he otherwise took minimal steps to address them before late 2013. He also exercised poor judgment when he failed to disclose his known tax issues on his e-QIP, although to his credit, he was forthcoming about them in person. Applicant has now filed his delinquent returns and paid a portion of his delinquent federal and state taxes. 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 delinquent tax liabilities, and with about \$57,000 in past-due tax debt 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. Concerns also persist about his judgment in light of his false certification of his e-QIP. 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 SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against 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