



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



In the matter of:)
)
) ISCR Case No. 14-00566
)
Applicant for Security Clearance)

Appearances

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

08/13/2014

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant and his spouse underpaid their federal income taxes for tax years 2008 through 2012. Despite ongoing payments to the Internal Revenue Service (IRS) since July 2009, they owed \$23,366.42 in delinquent federal taxes for 2009 through 2012 as of June 2014. In May 2014, they paid off past-due state taxes of \$2,263.74 for tax year 2012, but concerns persist about Applicant’s handling of his tax matters and financial affairs generally. Clearance is denied.

Statement of the Case

On March 26, 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 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 April 22, 2014, Applicant answered the SOR allegations, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On May 15, 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 27, 2014, I scheduled a hearing for June 18, 2014.

I convened the hearing as scheduled. Four Government exhibits (GEs 1-4) and 15 Applicant exhibits (AEs A-O) were admitted into evidence without objection. A chart, which was prepared by Department Counsel as a supplement to his oral closing argument, was accepted into the record as a hearing exhibit. Applicant testified, as reflected in a transcript (Tr.) received on June 27, 2014.

Summary of SOR Allegations

The SOR alleges under Guideline F that as of the date of the SOR, Applicant owed delinquent federal taxes of \$25,452.78 for tax years 2009 through 2012 (SOR 1.a) and delinquent state taxes of \$2,263.74 for tax year 2012 (SOR 1.b). Applicant admitted that he owed delinquent federal and state taxes as of the date of SOR, but he disputed the alleged balances. He indicated that tax returns were filed as required by law, and that he paid off his state tax debt of \$1,249.09 on April 16, 2014. Applicant added that he was repaying his federal tax debt under a plan established with the IRS.

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact:

Applicant is 49 years old. He and his spouse have been married since July 1990. They have a 22-year-old daughter and a 19-year-old son. (GE 1; Tr. 61-62.) In December 2012, Applicant began working under the employment of a staffing agency in the government security compliance unit of a defense contractor. After his interim security clearance was withdrawn in late February 2013, Applicant was removed from his position. As of June 2014, he was considered an eligible employee by the staffing agency, but he was not being paid. (Tr. 50-53.) He is seeking a secret clearance so that he can be recalled to work for the defense contractor. (Tr. 53.)

Applicant retired on August 1, 2007, after 20 years in state law enforcement. With overtime, Applicant estimates that he earned about \$80,000 in 2006. (Tr. 22.) During his career working under the direction and authority of the state police, he was involved in numerous criminal investigations. He worked closely at times with federal law enforcement personnel and had access to highly sensitive information. Applicant served professionally and with distinction. (GE 1; Answer; AEs L, O.) In July 2006, he was given a meritorious service award, recognized by the state, for his "generous contributions" to the state and its

citizens. On his retirement, Applicant was recognized for his outstanding service by a field office of the U.S. Federal Air Marshals, by the state department of public safety, and by the state police union. (AE O.)

While he was still employed in law enforcement, Applicant earned his master's degree in management in August 2006. (GE 1; Tr. 45.) After he retired, Applicant started his own investigations business. (GEs 1, 2; AE J.) He obtained a private detective's license from the state, which has been renewed every two years through October 19, 2015.¹ From November 2007 to May 2008, he held a part-time job with the state's transportation department. Also in May 2008, Applicant had some part-time hours as a field investigator working out of his house, and as an assistant program coordinator and substitute teacher for a summer program. From July 2008 to September 2008, Applicant was employed full time as a security manager for a state summer jobs program. (GEs 1, 2.)

Applicant was employed as a plant security manager by a firearms manufacturer from September 2008 to October 2010. Applicant was responsible for ensuring the company's compliance with several government contracts. During his tenure, Applicant fired security guards for theft. (GE 2.) An armed security guard was fired in December 2008 on suspicions (later confirmed) of vandalism and attempted theft of a rifle and laptop computer at work. Another security guard was arrested in early 2009 for stealing Blackberry phones from the company. (AE G; Tr. 35-40.) Applicant resigned from his position in October 2010 because of "professional differences." His supervisor was not receptive to his suggestions to revamp the department, and he could no longer deal with the stress. (GE 2; Tr. 35-37.) With bonuses, Applicant's wages had reached \$70,000 a year, and he knew resigning would strain his family's finances. (Tr. 37, 82.)

Applicant has worked as a part-time adjunct instructor in criminal justice, homeland security, and public speaking since about January 2008. (GE 1.) He filed for unemployment compensation to supplement his part-time earnings as an instructor. His business income as a private detective was only \$2,234 of his and his spouse's \$148,659 in adjusted gross income in 2010. (GE 2.) On November 12, 2010, a state employment security administrator denied Applicant unemployment benefits, finding that he left his work with the firearms manufacturer voluntarily without good cause. Applicant appealed, and on March 28, 2011, an associate appeals referee awarded him unemployment benefits. The appeals referee found that Applicant had suffered job-related stress leading to a medical condition for which he received treatment, and that the company did not follow Applicant's recommendations to properly staff the office, to discharge an employee with a history of misconduct, and to improve security at the workplace. Applicant collected unemployment compensation retroactive from October 24, 2010 to March 2011. (GEs 1, 2; AE F.)

In March 2011, Applicant began working full time at \$10 an hour as a security officer for a hotel. (GE 1; Tr. 83.) In October 2011, Applicant was directed by the manager on duty to deliver a newspaper to a hotel guest by use of his master key without notifying the guest of his entry. Applicant complied with the manager's order after informing her that he did not feel comfortable doing so. The guest was awake and complained of a violation of his

¹ Applicant paid \$800 to renew his private detective's license in 2009. In 2013, he paid \$1,000. (AE I.)

privacy. When Applicant told the hotel manager that he would no longer comply with the directive, he was discharged by his employer. (GEs 1, 2; AE H; Tr. 41-43.)

Applicant applied for unemployment compensation. On November 14, 2011, he was denied unemployment benefits on the basis that he had been terminated for wilful misconduct. Applicant appealed, and on January 23, 2012, an appeals referee granted him unemployment, finding that Applicant would have continued delivering newspapers to guests if allowed to give proper notice and that the hotel's directive was unreasonable. Applicant collected unemployment retroactive from October 23, 2011, to November 2012. (AE H.)

Applicant and his spouse opened numerous consumer credit accounts over the years to pay for his business and their home expenses. As debt accumulated, they transferred balances and consolidated debt trying to keep up with the payments. They stopped paying on some accounts in 2009 and 2010. When they became seriously financially overextended, they consulted a bankruptcy attorney, who advised them to stop payments to all their creditors. Applicant completed online financial counseling required of a bankruptcy. (Tr. 84.) The night before Applicant and his spouse were to file their petition, they elected to not pursue the bankruptcy. Instead, his spouse began contacting their creditors to make repayment arrangements. (GE 1; Tr. 49, 95-96.) Between June 2010 and January 2013, they settled approximately \$190,000 in consumer credit debt balances, in part with funds from Applicant's 401(k) from his employment with the firearms company.² (GEs 2, 4; Tr. 96.)

In December 2012, Applicant was placed by a staffing agency as a contract security manager at pay of \$85,000 annually in the government security compliance unit of a defense contractor. (Tr. 43.) On December 13, 2012, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP), never having previously held a DOD security clearance. Applicant disclosed that he fell behind on numerous debts due to lack of income from his investigations business, unsteady employment, and job losses between 2007 and 2009. He explained that after accounts became delinquent, he spoke to an attorney about bankruptcy. He and his spouse elected instead to make repayment arrangements ("Currently making payments and working out settlements."). Applicant listed delinquent federal income taxes of about \$15,000 for 2009 through 2011, which he arranged to repay at \$400 a month, and about \$1,000 in state income taxes "for approximate year 2011 with payments." Additionally, a credit card lender had placed a \$15,000 lien against his property, but he was making weekly payments of \$35 to resolve the debt.³ (GE 1.) Applicant was granted an interim secret clearance around December 21, 2012. (AE K; Tr. 48.)

² The settlement letters in GE 2 confirm the accounts were resolved, but only a few show the amount paid. They show Applicant or his spouse paid \$5,000 in January 2013 to settle a \$17,003 debt; \$1,265 in March 2011 to settle a \$2,271 debt; and \$2,000 in December 2009 and \$560 in May 2010 to resolve his spouse's credit card accounts on which he was an authorized user. (GE 2.)

³ The judgment lien was released on February 18, 2013, on satisfaction of the debt. (GE 2.)

As of January 2013, Applicant was making timely payments on his mortgage, although he had been late 30 days five times. Applicant had two student loans in his name with balances of \$11,501 and \$6,162, which had been delinquent 60 days but were current as of November 2012. (GE 4.)

On January 10, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). Applicant explained that he owed federal income taxes for 2009 through 2011 [sic] because he did not have the funds to pay the taxes owed when he filed his returns. He indicated he had complied with his IRS payments of \$400 a month and with his state tax payments of \$100 a month for 2010 and 2011. Applicant was unable to provide specific information about the delinquent consumer credit debts on his record, including those which had been settled for less than the balance, because his spouse paid the bills. He had incurred the consumer credit debt to purchase household items, to build a deck, and to pay for gas and other bills. Applicant expressed his intent to pay all his debts by 2018. (GE 2.)

Around February 27, 2013, Applicant was informed that his interim security clearance had been withdrawn, so the defense contractor could no longer use his services. He went back on unemployment, which was around \$267 a week. Applicant also had his retirement pay of \$3,132.45 a month and his spouse's wages to meet household expenses and make his tax payments. (GE 2; Tr. 18, 50.)

By mid-January 2014, Applicant and his spouse had satisfied most of the delinquent consumer credit accounts on his record. (GE 2.) Two credit card accounts, with balances of \$4,115 and \$10,340, had been charged off as of November 2013. Applicant was an authorized user of those accounts, which had been current until August 2013. (GE 3.)

In response to DOD CAF interrogatories, Applicant completed a personal financial statement showing net monthly income of \$9,384 (\$4,800 his spouse's net salary and \$4,584 his retirement and unemployment income), monthly expenses of \$2,754, and \$3,575 in debt payments (\$2,556 to the mortgage, \$50 to a \$610 credit card balance, \$266 to his past-due state taxes, \$500 to his federal taxes, and \$203 to \$16,648 in student loans). (GE 2.)

Available tax records show that Applicant and his spouse filed timely tax returns, but they underpaid their federal income taxes for tax years 2008 through 2012. On adjusted gross income of \$164,366 for tax year 2008, they owed \$2,963, of which they paid \$200 when they filed their return. They contacted the IRS about repayment, and on June 1, 2009, they entered into an agreement with the IRS to repay their debt in \$200 monthly installments. They missed one payment, in October 2010, and were assessed a penalty and interest for the late payment. Their delinquent tax debt for 2008 was satisfied around December 2010. (AE D; Tr. 34.)

On adjusted gross income of \$231,907 for tax year 2009, Applicant and his spouse underpaid their federal income taxes by \$16,330. On December 16, 2010, they established an installment agreement with the IRS to repay the debt at \$300 a month. They made their

payments through mid-November 2011. They made no payments in December 2011, January 2012, or February 2012. In March 2012, they began paying \$405 per month to the IRS. They missed payments in December 2012 and June 2013.⁴ In October 2013, their monthly payment was increased to \$500. (AE E; Tr. 92.) On adjusted gross income of \$208,382 for tax year 2010, they underpaid their taxes by \$8,221. On adjusted gross income of \$176,259 for tax year 2011, they underpaid their taxes by \$864. On adjusted gross income of \$197,412 for 2012, they underpaid their federal taxes by \$5,628. As in previous years, Applicant and his spouse sent in no payments with their returns. (GE 2.)

As of January 1, 2014, their unpaid federal tax debt with penalties and interest was \$25,362.78 (\$8,744.90 for 2009; \$9,675.88 for 2010, \$974.35 for 2011; and \$5,967.65 for 2012). Applicant and his spouse paid \$500 a month to the IRS through at least June 2014, and those payments were applied to their tax liability for 2009. (AEs B, C, E.) As of June 4, 2014, their outstanding federal tax balance was \$23,366.42, which included penalties and interest (\$6,366.65 for 2009; \$9,891.27 for 2010; \$996.91 for 2011; and \$6,111.59 for 2012). (AE C.) Applicant intends to make at least his monthly minimum payment (currently \$500) until his federal tax debt is satisfied. (Tr. 93-94.) As of mid-June 2014, Applicant and his spouse had filed for an extension to submit their federal income tax return for tax year 2014. Applicant anticipated their return would be filed before the deadline. He indicated that he “probably” will owe federal or state income taxes for 2013. (Tr. 65.)

Applicant and his spouse underpaid their state income taxes for 2012. On September 12, 2013, they arranged to repay the debt, which was \$2,263.74 as of December 2013, at \$265 per month. (GE 2; AE A.) With a final payment of \$11.44 on May 7, 2014, they satisfied their state tax debt. (AE A.)

As of May 13, 2014, Applicant was making timely payments on four credit card accounts: a business account with a \$561 balance (opened in November 2011); an individual account with a \$277 balance (opened in October 2010); an account with a \$5,216 balance (opened in March 1999); and an account with a \$390 balance (opened in March 2013). Two credit card accounts on which he was an authorized user had been charged off by November 2013. Last activity on the accounts was in August 2013. Applicant was making monthly payments of \$70 and \$132 on two student loans for his graduate study (Tr. 71), which had respective balances of \$5,646 and \$10,538. He and his spouse were \$4,018 past due on their mortgage as of March 2014, although they were making reduced payments of approximately \$1,700 under a partial payment agreement. Applicant’s credit report shows that they were past due 30 days on their account seven times in the last two years. (GE 3; Tr. 70.)

⁴ Applicant testified that to his knowledge, he and his spouse have not missed any payments to the IRS. (Tr. 63-64.) He assumed that had they missed a payment, they would be considered in default by the IRS. (Tr. 91.) IRS records show that payments since February 7, 2011, have been applied to their federal tax debt for tax year 2009. They made no payments after November 14, 2011 until March 1, 2012, when the amount increased to \$405 per month. IRS records do not show any payments in December 2012 or June 2013. (AE E.)

Applicant's spouse has worked as a business manager for a nonprofit organization for more than ten years. (Tr. 75.) Her monthly take-home pay is around \$4,800. (Tr. 67.) As of mid-June 2014, Applicant was still receiving unemployment compensation, although it was scheduled to end soon. (Tr. 68.) Applicant estimates the current balance of his primary checking account to be between \$200 and \$1,000. He has \$100 in a savings account and another \$300 in a credit union account from which he pays for some life insurance coverage. (Tr. 72-73.) He has about \$200 in his business account. (Tr. 73.)

Applicant's daughter recently graduated from college and lives on her own. (Tr. 62.) Last year, she had an unpaid internship, so Applicant and his spouse paid her living expenses, which were "close to \$3,000 or \$6,000." (Tr. 79.) Applicant's son just finished his freshman year in college. (Tr. 77-78.) Applicant provided between \$500 and \$600 monthly to his children (primarily his daughter) for their expenses in college during the 2013/2014 academic year. Their tuition was covered by student loans, which are "partially in their name[s]." (Tr. 77-78.)

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. Although Applicant and his spouse filed annual returns, they paid only \$200 of \$2,963 in federal taxes owed for 2008 when they submitted their return. They paid nothing with their returns toward their tax debts of \$6,176.21 for 2009; \$8,553.20 for 2010; \$908.81 for 2011; and \$5,867.07 for 2012. In June 2009, they entered into the first of yearly installment agreements with the IRS to repay their late taxes for 2008 through 2012. Even with ongoing payments to the IRS since July 30, 2009, they owed delinquent federal taxes of \$25,362.78 for tax years 2009 through 2012 as of January 2014. In addition, as of December 26, 2013, Applicant and his spouse had a delinquent state income tax liability of \$2,263.74 that they repaid at \$265 per month.

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. Applicant and his spouse’s tax problems started in 2009, but they continued through at least September 2013, when they filed their federal and state income tax returns for 2012 and did not submit payment with their returns.

Applicant cites reduction in income and loss of employment as reasons why he has not been able to pay his taxes with his returns for the past few years. (Tr. 73.) Loss of income is a circumstance contemplated within AG ¶ 20(b), which provides as follows:

(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.

Applicant retired from a 20-year career in law enforcement effective August 1, 2007. He opened his own private investigations business, which did not prove profitable. Applicant may reasonably have not foreseen the difficulty obtaining clientele for his business. Applicant was not without income in that he had his state pension, which netted him around \$3,516 a month, albeit less than his previous wages. In September 2008, he began working for the firearms manufacturer. Applicant and his spouse's adjusted gross income for 2009 was \$231,907. Had they handled their finances responsibly, they should have been able to pay most, if not all, of their \$2,963 tax underpayment for 2008 when they filed their federal return in 2009. Similarly, their adjusted gross income was \$208,382 in 2010; \$176,259 in 2011; and \$197,412 in 2012, which should have been enough to cover at least some of the taxes owed when they filed their returns. They owed only \$864 for tax year 2011. To a large extent, their financial difficulties were caused by overreliance on consumer credit. Applicant and his spouse were so far in debt that they contemplated filing for bankruptcy. Between 2010 and January 2014, Applicant and his spouse settled about \$190,000 of consumer credit debt, many accounts for less than the full balance owed.⁵ Even so, AG ¶ 20(b) does not apply to the financial judgment concerns raised by his failure to comply with his tax payment obligations for several years, including for tax years 2009 and 2010 when he had full-time employment.

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," are established with respect to Applicant's state tax liability alleged in SOR 1.b. Applicant and his spouse satisfied their delinquent state taxes for 2012 by repayment from September 2013 to May 2014. Concerning their sizeable federal tax liability, Applicant and his spouse have had installment agreements in place with the IRS since June 2009. They resolved their delinquent taxes for 2008 around December 2010. Payments since February 2011 have been applied to tax year 2009 to reduce their joint

⁵ There is no SOR allegation concerning his many delinquent consumer credit accounts, presumably because of his efforts to address them between 2010 and 2014. These debts are relevant because Applicant and his spouse gave them priority over paying their taxes when due. The DOHA Appeal Board has long held that the administrative judge may consider non-alleged conduct to assess an applicant's credibility; to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; to decide whether a particular provision of the Adjudicative Guidelines is applicable; or to provide evidence for a whole person analysis under Section 6.3 of the Directive. See, e.g., ISCR Case No. 03-20327 (App. Bd. Oct. 26, 2006); ISCR Case No. 09-07219 (App. Bd. Sep. 27, 2012).

liability for that year from \$17,276.21 (including interest and penalties as of November 2010) to \$6,366.65 as of June 4, 2014. Yet, with interest and penalties, they still owe \$23,366.42 in past-due federal taxes for 2009 through 2012.

The DOHA Appeal Board has held that an 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 and his spouse's installment agreements with the IRS required monthly payments of \$200 initially, then \$300 from February 2011 through February 2012, and \$405 from March 2012 to September 2013. Since October 2013, they have been required to pay \$500 a month. Applicant and his spouse have a track record of payments to the IRS. However, while Applicant believes that they have missed no payments, IRS records show no payments in December 2012 or June 2013. Available credit records show that he had an \$11,582 credit card debt in collection as of December 2012. As of June 2013, Equifax was reporting that the debt had been paid after charge off, although the amount paid is not shown. Available funds may have gone to other debts, but missed payments to the IRS undermine confidence in Applicant's financial judgment. His spouse may be handling their financial affairs, but Applicant has an obligation to ensure that debts are being paid on time.

Applicant has been without full-time employment since late February 2013, when his interim clearance was withdrawn. Despite Applicant's unemployment, they appear to have sufficient income to pay their expenses. Applicant's and his spouse's net monthly discretionary income has exceeded \$2,000, even after accounting for \$500 to \$600 per month for their children's college expenses. Yet, as of March 2014, they were making only partial payments on their mortgage, which was considered \$4,018 past due. Over the previous 24 months, they had been 30 days late on their mortgage seven times. As of May 2014, Applicant had two outstanding charged-off credit card accounts with balances of \$4,115 and \$10,340 on his credit record. His previous credit report of January 2013 shows he was only an authorized user on those accounts, which are likely his spouse's legal responsibility. It is unclear whether Applicant knows about those delinquencies, but he is aware that he and his spouse are paying less than their full mortgage. (Tr. 70.) Applicant has not yet persuaded me that his financial situation is currently under control to the point where he can be counted on to comply with his income tax payment obligations. AG ¶ 20(c) and AG ¶ 20(d) do not fully mitigate the financial considerations 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).⁶

⁶ 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

Applicant and his spouse did not have sufficient taxes withheld from their income and his pension to cover their federal tax liability for tax years 2008 through 2012, or their state tax liability for 2012. Instead of paying their federal taxes when due, they focused on their consumer credit card debt, which was excessive. Applicant and his spouse are credited with settling about \$190,000 of consumer credit debt from 2010 to 2014, although several of the accounts were settled for less than the full balance owed. Applicant had a distinguished career in law enforcement, and he understandably had ethical concerns with previous jobs which ultimately led to periods of unemployment for him. 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). Applicant's and his spouse's annual adjusted gross income has fluctuated but also exceeded \$150,000 a year for the past five years. Applicant could reasonably be expected to have complied with his income tax payment obligations. With \$23,366.42 in delinquent federal income taxes owed as of early June 2014, and evidence of other recent financial problems (e.g., the late payments on his mortgage), it is not clearly consistent with the national interest to grant Applicant a security clearance 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:	Against Applicant
Subparagraph 1.b:	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

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.