DATE: August 31, 2006

In re:

SSN: ----------

Applicant for Security Clearance

CR Case No. 05-02831

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant, who had already received a fresh start with a Chapter 7 bankruptcy discharge in 1994, had another $100,000 in debt discharged in November 2002. Debts not discharged included delinquent federal taxes for 1998, 1999, 2001, and 2002, student loans in default, and a $5,080 credit card debt in collection. As of February 2006, he had satisfied the credit card debt, and was paying $400 monthly on his federal tax debt totaling $23,011.95, and $304 monthly to rehabilitate his defaulted student loan debt of $21,720.02. Financial considerations concerns persist given his history of delinquency and the amount of debt that needs to be repaid. Personal conduct and criminal conduct concerns are raised by his failure to disclose his debts, federal tax liens, and two drunk driving offenses when he applied for his clearance. Clearance is denied.

STATEMENT OF THE CASE

On September 30, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant. The SOR detailed reasons under Guideline E, personal conduct, Guideline F, financial considerations, and Guideline J, criminal conduct, why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant,[(1)] and recommended referral to an administrative judge to conduct proceedings and determine whether clearance should be granted, continued, denied, or revoked.

Applicant responded to the SOR on October 21, 2005, and requested a hearing. The case was assigned to me on January 3, 2006. Pursuant to notice dated January 17, 2006, I convened a hearing on arch 2, 2006. Six government exhibits and six Applicant exhibits were admitted, and Applicant and his spouse testified, as reflected in a transcript received March 15, 2006.

FINDINGS OF FACT

The government alleged under Guideline F that Applicant petitioned for Chapter 7 bankruptcy in July 1994 and July

2002, and for a dismissed Chapter 13 bankruptcy in April 1998, and owed $1,443 in delinquent federal taxes resulting in a tax lien filed in October 1999, $1,403 on a delinquent credit card account, and $22,952 in student loan debt in collection. Under Guideline E, Applicant was alleged to have falsified his January 2004 security clearance application (SF 86) for not disclosing tax liens filed in October 1999 and August 1998, his federal tax and credit card delinquencies, and January 1995 and June 1996 drunk driving offenses. The SF 86 omissions and drunk driving offenses were also alleged as criminal conduct under Guideline J. In his October 2005 Answer, Applicant admitted the Guideline E allegations, his federal tax debt and lien, as well as his bankruptcy filings. He denied the alleged student loan debt and did not respond to the Guideline J allegations. At his hearing, he indicated his admissions to the Guideline E allegations were only to the underlying conduct alleged to have been omitted deliberately from his SF 86, and he denied violation of 18 U.S.C. § 1001. He admitted ¶ 3.b.; that the drunk driving incidents were criminal.

Applicant admissions, as clarified at the hearing, are incorporated as findings of fact. After a thorough consideration of the evidence of record, I make the following additional findings:

Applicant is 63-year-old senior engineer who has worked for his current employer, a defense contractor, since April 2001. He seeks a secret-level security clearance for his duties.

A good husband and father to his now grown children, Applicant sent his daughter (born in 1973) and son (born in 1971) to private high school where he took an active role, serving on a number of committees. Over the 1991/92 time frame, he took on student loan debt to finance his children's college educations. A salaried employee for a utility company, Applicant was earning in the mid-$60,000s annually and his spouse was employed in school transportation.

In October 1993, Applicant lost his job due to downsizing. Within weeks, Applicant took a position as director of operations for a new start-up company (company X) in power plant development. His pay, which averaged out to about $30,000 annually, fluctuated depending on business earnings. It was insufficient to meet their accumulated credit card obligations, and Applicant and his spouse filed a joint Chapter 7 bankruptcy petition in July 1994. Their debt, consisting primarily of credit card obligations, was discharged.

Over the 1995/96 time frame, Applicant was twice arrested and convicted of drunk driving offenses. He was fined $300 for a January 1995 driving while impaired offense. For driving under the influence in June 1996, he was fined, his driver's license was suspended, and he was ordered to complete an alcohol rehabilitation program. Applicant understood that the offense would be stricken from his motor vehicle record if he fulfilled the terms of his sentence, which he did.

Applicant was paid nothing in 1997 for his work with company X. Hoping to save their home, Applicant and his spouse filed for Chapter 13 bankruptcy in April 1998. They were unable to make the payments required under the plan, and the bankruptcy was dismissed. Applicant indicated his home was foreclosed on, although the record is silent as to the date of a foreclosure and the extent of his debt at that time.

In August 1998, the Internal Revenue Service (IRS) filed a tax lien against Applicant for $36,449. Applicant, who moved to his current residence in November 1998, claims he was never notified of the lien, which was subsequently released in January 2003. In October 1999, the IRS filed another tax lien because of back taxes of $1,443.08 owed for 1998 due to insufficient withholdings from his income. This lien was filed with the clerk of the city where Applicant has resided since November 1998.

In March 1999, Applicant started working as a site manager for a contracting company where he oversaw ongoing construction activity. Despite an increase in his earnings from the start-up, he and his family continued to live "hand to mouth." Applicant relied on credit to purchase necessities such as food and clothing for himself and his family. In November 1999, Applicant took a management position as a project engineer at another company. They continued to struggle financially despite an increase in salary. In April 2001, he began working for his current employer.

With a creditor pursuing $64,000 in unpaid debt on a personal credit card Applicant had used for business travel that was never reimbursed by company X, Applicant filed for Chapter 7 bankruptcy in July 2002. About $100,000 in debt was discharged in November 2002, some $36,000 of which was personal loan debt and consumer credit card debts incurred by Applicant in the support of his family.

Not included in Applicant's personal bankruptcy was a debt he owed on a corporate travel card that he had used for personal expenses (SOR ¶ 2.e.). In March 2003, the account was sent for collection with a balance of $5,080. Applicant subsequently made payments on the debt, reducing the balance to $1,403 as of July 2005. With a final payment of $146.96 in November 2005, the debt was satisfied.

Applicant did not timely file his federal income tax returns at least for tax years 1998, 1999, 2001, and 2002. Applicant claims that after he filed for extensions, he simply forgot about filing.

While out of work on paid leave after suffering a minor heart attack in January 2004, Applicant completed a security clearance application (SF 86) that was eventually submitted to the government in arch 2004.[(2)] Applicant listed the 2002 Chapter 7 bankruptcy discharge of about $100,000 in debt in response to question 33 ("In the last 7 years, have you filed a petition under any chapter of the bankruptcy code (to include Chapter 13)?"). Knowing he owed federal taxes as he had not timely filed returns for tax years 1998, 1999, 2001, and 2002,[(3)] Applicant responded "NO" to the other financial record inquiries, including whether any tax liens had been filed against his property within the past seven years (question 36), whether he had been over 180 days delinquent on any debts within the past seven years (question 38) and whether he was currently over 90 days delinquent on any debt (question 39). Fully aware that his corporate-sponsored credit card had been in collection, Applicant did not report the debt because he was making payments to the collection agency. Applicant also denied on his SF 86 that he had ever been charged or convicted with any offense related to alcohol or drugs.

Sometime in 2004, Applicant contacted the IRS about filing his delinquent returns. After filing returns, he subsequently filed addendums on those returns to claim additional dependents since his daughter and her two children were living with him. In response to DOHA interrogatories, Applicant indicated on May 31, 2005, that he was in the process of filing an amended tax return to resolve the tax debt leading to the October 1999 tax lien. He also provided documentation of two payments totaling $250 in April 2005 on the corporate credit card that he had used for personal expenses (¶ 2.e.). He reported the balance as $1,653. With a final payment of $146.96 in November 2005, Applicant paid off the debt.

A check of Applicant's credit on July 22, 2005, revealed Applicant had defaulted on the student loans taken out for his children's college educations. Applicant offered no explanation for why he was so short of funds that he could not make the student loan payments (*see* Tr. 50). Pursued for collection, Applicant began paying $304 per month starting in March 2005 to rehabilitate the loans. As of June 2005, the aggregate balance of the educational loan debt was $22,952. As of early February 2006, the balance was $21,720.02, and he was close to completing the required payments to take the loans out of default. Applicant is not certain of the amount he will have to pay once the loans are rehabilitated.

In June 2005, Applicant incurred $1,500 in medical debt that was not covered by his medical insurance because it was considered as elective surgery by his insurer. He was current in his automobile loan, having repaid all but $5,211 on a $17,314 loan taken out in July 2001 for a 1999 sport utility vehicle. He was paying $430 per month on his spouse's vehicle. He had two active credit card accounts that were current and had balances of $341 and $441. In about September 2005, Applicant contacted the IRS about repaying his delinquent taxes. The IRS accepted his offer of $400 monthly installment payments starting in October 2005. As of February 2006, his delinquent taxes for 1998 had been satisfied and the tax lien filed in October 1999 was released. Applicant and his spouse still owed $4,974.05 for 1999, $8,481.76 for 2001, and $9,556.14 for 2002.

As of March 2006, Applicant's annual salary was $62,400. His spouse works in morale, welfare, and recreation for a service branch of the U.S. government. Their daughter and her two children (younger born in April 2005) were still living with Applicant and his spouse. Expecting her third child in April 2006, Applicant's daughter was receiving no financial support from her children's fathers. She was not contributing to the household expenses as she had no income. Applicant's son works in the pharmaceutical industry. Applicant has not asked him for assistance in repaying the student loan Applicant took out for his education.

Applicant has no money set aside for emergency expenses. Applicant and his spouse's net incomes are about $5,180 per month and their expenses are about $3,512, excluding food and clothing for themselves, their expectant daughter, and their grandchildren.[(4)] As of December 2005, Applicant's two credit cards had outstanding balances of $350 (on a credit

limit of $350) and $437 (on a credit limit of $450).

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Concerning the evidence as a whole, the following adjudicative guidelines are most pertinent to this case:

Financial Considerations. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts. (¶ E2.A6.1.1.)

Personal Conduct. Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. (¶ E2.A5.1.1.)

Criminal Conduct. A history or pattern of criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. (¶ E2.A10.1.1.)

CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal precepts and factors, and having assessed the credibility of those who testified, I conclude the following with respect to Guidelines F, E, and J:

Under Guideline F, financial considerations, the security eligibility of an applicant is placed into question when the applicant is shown to have a history of excessive indebtedness, recurring financial difficulties, or a history of not meeting his financial obligations. The government must consider whether individuals granted access to classified information are, because of financial irresponsibility, in a position where they may be more susceptible to engaging in criminal acts to obtain funds. Applicant has had difficulties repaying his financial obligations since the mid-1990s. Afforded a fresh start in a Chapter 7 bankruptcy in 1994, he and his spouse managed to get by until 1997 when Applicant received no pay for his work at company X. In April 1998, they filed a Chapter 13 bankruptcy but were unable to meet the terms. With his income steady since October 1999, Applicant accrued about $36,000 in additional consumer credit debt that was subsequently discharged in a 2002 Chapter 7 bankruptcy. He also defaulted on student loans that he had taken out for his children's educations, and owed delinquent federal income taxes. Disqualifying conditions (DC) ¶ E2.A6.1.2.1. *A history of not meeting financial obligations*, and ¶ E2.A6.1.2.3. *Inability or unwillingness to satisfy debts*, apply.

Mitigating condition (MC) ¶ E2.A6.1.3.3. *The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation)* applies in extenuation of the debt that led to his bankruptcy in 1994. His job layoff in October 1993 was not

foreseen. As for the financial problems that led to the failed Chapter 13 bankruptcy in 1998, Applicant exhibited questionable judgment in staying on at company X when he was not being paid, but the business downturn was not within his control. However, there is evidence of recent financial irresponsibility that is not mitigated under ¶ E2.A6.1.3.3. While $64,000 of the $100,000 in debt discharged in the 2002 Chapter 7 bankruptcy was business-related travel expenses for company X, the remainder was personal consumer debt incurred after his 1994 bankruptcy. After he started his job with the defense contractor in April 2001, he defaulted on his student loans, did not timely file returns or pay federal taxes owed for 2001and 2002, and also charged personal expenses on a credit card that was supposed to be used for business.

Applicant had an admitted "habit of maybe hoping [debt] would go away" (Tr. 79), but he contends he is now making a "concerted effort" to ensure that all payments are timely. Since March 2005, he has made monthly payments to a collection agency in an effort to rehabilitate his student loans. He has paid $400 per month to the IRS since October 2005 toward his delinquent federal taxes, and satisfied the credit card debt in ¶ 2.e. with a final payment in November 2005. A check of Applicant's credit in December 2005 revealed no new delinquency. While he was continuing to rely on consumer credit, the balances of his two active credit cards were less than $500 each, and he was making timely payments on his automobile loan. His efforts to resolve his delinquent debt, although very recent, fall within ¶ E2.A6.1.3.6. *The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*, but the DOHA Appeal Board has long held that the mere presence or absence of an adjudicative guideline for or against clearance is not solely dispositive of a case. The administrative judge, who must consider applicable adjudicative guidelines in light of the record evidence as a whole,[(5)] has the discretion to deviate from the literal terms of a pertinent adjudicative guideline where there is a rational basis to do so.[(6)]

A significant security concern may still exist where there is a risk of future financial instability. Applicant owes $21,720.02 in federal income taxes and $23,011.95 in educational loan debt. He and his spouse reported net income that exceeded monthly expenses by $1,668, which did not include the costs of food and clothing for themselves, daughter, and grandchildren. The payoff of his auto loan in July 2006 is expected to free up another $448, but Applicant's expenses are anticipated to increase with the birth of another grandchild in April 2006. He had no money set aside for an emergency. While he has the funds to continue to make payments on his student loans and tax debts, his financial situation remains tenuous. His recent payments are not enough to persuade that his financial difficulties are safely of the past. SOR ¶ 2.a. is found for Applicant as his financial situation was negatively impacted by his unforeseen job layoff and the debts were discharged. However, adverse findings are returned as to the remaining Guideline F allegations because of his documented disregard until very recently and the lingering concerns for his financial solvency.[(7)]

Under Guideline E, personal conduct, the government established its case with respect to willful omission by Applicant of his January 1995 and June 1996 drunk driving offenses from his SF 86. When asked about the omission, Applicant testified:

When you go to court, and the magistrate sits in front of you, and you are represented by legal counsel, then the magistrate and the law lays out certain guidelines that if you comply to 1, 2, 3, and 4 out of four, then this will be stricken from the record. In both cases, I was told that, and I just kept that, or had that back in my mind. Even in [city omitted], I was told that if I attended the rehabilitation courses that would not appear on a motor vehicle record.

He continued that he was thinking about his motor vehicle record when he completed his SF 86 ("I wasn't thinking about an arrest record or a criminal record or anything of that general nature at that time." Tr. 58) Applicant's explanations are not credible. Given the bold font ("**Your Police Record-Alcohol/Drug Offenses**"), and the context in which the question appears (the fourth of six questions in a row pertaining to police record), Applicant was clearly apprized of the nature of the inquiry. His offenses were certainly not minor motor vehicle infractions. He was arrested, brought into court, and had legal representation. Furthermore, question 24 is unambiguous in requesting the information, even if Applicant had believed them stricken from his record ["Have you ever been charged with or convicted of any offense(s) related to alcohol or drugs? For this item, report information regardless of whether the record in your case has been 'sealed' or otherwise stricken from the record. . . ."]. When that was pointed out to Applicant, he claimed he didn't read it, "I didn't read down. I didn't you know, I just read have you ever been charged or convicted with any offense related to alcohol or drugs" (Tr. 59), which undermines his first response that he left them off because they had been stricken. DC ¶ E2.A5.1.2.2. *The deliberate omission, concealment, or falsification of relevant and material 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, applies.

Concerning Applicant's failure to list the tax liens, he testified he was unaware or failed to recollect either lien when he completed his SF 86 (Tr. 56). A reasonable inference of knowing concealment is warranted with respect to the tax liens as well. Albeit under a threat of foreclosure, Applicant was still living in the home against which a lien had been filed for $36,449 in August 1998. Business as usual would have dictated that the notice of a lien be sent to him at that address and Applicant offered no plausible explanation to counter that reasonable inference. DC ¶ E2.A5.1.2.2. applies. By the October 1999 lien, Applicant had lost his home and moved to a rental address. The government's evidence reflects the lien was filed in the jurisdiction where Applicant has lived since November 1998, and his testimony suggests he had received notice of the lien:

Subsequent to 1998, [current address omitted] is not a residence that I own. It is a rental property, and when I received this in the mail, I was kind of, you know, shocked. I didn't know what they were placing a lien on because I had no property for them to place a tax lien on. (Tr. 60)

Separate from the issue of the tax liens, Applicant knew he owed delinquent taxes to the IRS as of when he filed his SF 86 (*see* Tr. 56, "I knew I owed taxes to the federal government, but I had no recollection of a lien, a federal tax lien.") He also knew he had been delinquent on his mortgage as of July 1998, as he and his spouse filed a joint Chapter 13 bankruptcy petition in an effort to avoid foreclosure. Although it was not alleged, it is noted Applicant did not report this failed Chapter 13 filing on his SF 86, even though it was within the seven-year scope of question 33. Applicant was also aware the company-sponsored credit card he used for personal expenses was in collection (¶ 2.e.). Yet, he failed to list any of these debts in answer to question 38 (debts over 180 days delinquent in last seven years). While he had lost his home well before January 2004, he had not made any effort to repay his federal taxes, so an affirmative response was required to question 39 (financial delinquencies currently over 90 days). Applicant's credit report of May 2004 revealed his student loans were considered current as of January 2004 although they had been delinquent 150 days in the past. There is no evidence the student loans fell within the scope of questions 38 or 39 as of his SF 86, but Applicant has not met his burden of showing that his omission of the federal tax delinquencies and the credit card debt in collection were not knowing and willful. None of the Guideline E mitigating conditions apply.

Applicant's knowing and willful misrepresentations on his SF 86 constitute a violation of 18 U.S.C. § 1001.[(8)]

Under Guideline J, DC ¶ E2.A10.1.2.1. *Allegations or admission of criminal conduct, regardless of whether the person was formally charged,* and DC ¶ E2.A10.1.2.2. *A single serious crime or multiple lesser offenses,* apply as well. Doubts persist as to whether his representations can be relied on, given his failure to provide a consistent, credible explanation for the omission of the drug driving offenses, his delinquent tax and credit card debts, and even the Chapter 13 bankruptcy filing from his SF 86. His disclosure on his security clearance application of the more recent Chapter 7 discharge does not relieve him of his obligation to report his drunk driving convictions or those obligations he knew were delinquent. His reputation for personal integrity in the community is not enough to overcome the security concerns in this regard. Accordingly, SOR ¶¶ 1.a., 1.b., 1.c., 1.d., and 3.b. are resolved against him.

Applicant's two drunk driving incidents within 18 months also fall within ¶ E2.A10.1.2.1. and ¶ E2.A10.1.2.2. of the criminal conduct guideline. Although the alcohol-related criminal conduct is not recent (*see* ¶ E2.A10.1.3.1.), it cannot be viewed in isolation from his more recent deliberate falsifications. Accordingly, none of the mitigating conditions apply. There is nothing of record about Applicant's current drinking behavior to suggest that future drunk driving is likely, but he has also not shown remorse for conduct that clearly presented a danger to himself and others. An adverse finding is warranted as to ¶ 3.a., the passage of time without recurrence notwithstanding.

Applicant's ongoing support for his daughter and her children is understandable, even as it costs him financially as he approaches retirement age, but the concerns go beyond financial. Applicant has exhibited questionable judgment in several different aspects of his life, including disregard of financial obligations until he is ready to address them, operating a vehicle under the influence at significant danger to self and others, unacceptable tendency to act in self-interest ahead of his obligation of candor). Under the totality of the facts and circumstances presented, I am unable to

conclude that it is clearly consistent with the national interest to grant him access to classified information.

FORMAL FINDINGS

Formal findings as required by Section 3, Paragraph 7 of Enclosure 1 to the Directive are hereby rendered as follows:

Paragraph 1. Guideline E: AGAINST THE APPLICANT

Subparagraph 1.a.: Against the Applicant

Subparagraph 1.b.: Against the Applicant

Subparagraph 1.c.: Against the Applicant

Subparagraph 1.d.: Against the Applicant

Paragraph 2. Guideline F: AGAINST THE APPLICANT

Subparagraph 2.a.: For the Applicant

Subparagraph 2.b.: Against the Applicant

Subparagraph 2.c.: Against the Applicant

Subparagraph 2.d.: Against the Applicant

Subparagraph 2.e.: Against the Applicant

Subparagraph 2.f.: Against the Applicant

Subparagraph 2.g.: Against the Applicant

Subparagraph 2.h.: Against the Applicant

Paragraph 3. Guideline J: AGAINST THE APPLICANT

Subparagraph 3.a.: Against the Applicant

Subparagraph 3.b.: Against the Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Elizabeth M. Matchinski

Administrative Judge

1.

2. The SF 86 of record, generated on March 25, 2004, includes releases signed by Applicant on January 29, 2004. (Ex. 1) It is reasonable to infer that Applicant completed the SF 86 in January and it was submitted to the government in March.

3. Applicant admitted at his hearing that he knew he owed taxes to the federal government but he did not recollect a federal tax lien. (Tr. 56)

4. Applicant and his spouse were paying $878 per month for two cars, although his loan was scheduled to be satisfied in July 2006. The other vehicle is a 2001 small SUV bought in 2002, to be repaid at $430 per month. That loan does not appear on Applicant's credit report. In addition to the two car loans, Applicant was paying $1,200 in rent, $88 for cable and satellite television, about $240 in commuting costs, $400 for utilities, $400 to the IRS, and $306 on the student loans. (Tr. 63-66, 74)

5. *See, e.g.*, ISCR Case No. 99-0500 (App. Bd. May 19, 2000).

6. *See,* e.g., ISCR Case No. 95-0912 (App. Bd. Feb. 27, 1997).

7. SOR ¶2.c. is resolved against him because of the underlying personal consumer credit card debt that he incurred subsequent to the previous discharge.

8. 18 U.S.C. § 1001 provides in part:

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully: (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.