



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



In the matter of:

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ISCR Case No. 15-01283

Applicant for Security Clearance

**Appearances**

For Government: Tovah A. Minster, Esq., Department Counsel  
For Applicant: Gregory F. Greiner, Esq.

10/21/2016

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant failed to timely file his federal and state tax returns from 2008 through 2011. By the time of his hearing, he had generated all required tax returns, and he did not owe any taxes; however, a track record of timely filing of tax returns is necessary to fully mitigate financial considerations security concerns. Access to classified information is denied.

**History of the Case**

On October 30, 2012, Applicant completed and signed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On February 25, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued an SOR to Applicant pursuant to Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and the adjudicative guidelines (AG), which became effective on September 1, 2006.

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. (Hearing Exhibit (HE) 2)

Specifically, the SOR set forth security concerns arising under the financial considerations guideline.

Applicant provided an undated response to the SOR. On May 5, 2016, Department Counsel was ready to proceed. On May 19, 2016, the case was assigned to another administrative judge, and on August 4, 2016, it was transferred to me. On August 30, 2016, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for September 16, 2016. (HE 1) The hearing was held as scheduled.

Department Counsel offered four exhibits; Applicant offered six exhibits; and all proffered exhibits were admitted without objection. (Tr. 11-12; GE 1-4; Applicant Exhibits (AE) A-F) On September 27, 2016, DOHA received a copy of the transcript of the hearing. On October 4, 2016, Applicant provided 16 post-hearing exhibits, which were admitted without objection. (AE G-BB) The record closed on October 4, 2016. (Tr. 28)

### **Findings of Fact**

In Applicant's SOR response, he admitted all of the SOR allegations. He also provided extenuating and mitigating information. Applicant's admissions are accepted as findings of fact.

Applicant is 39 years old, and he has worked for the same employer since 2001. (Tr. 13, 15; GE 1) He is a senior software engineer. (Tr. 15) He has never married, and he has a 20-month-old son. (Tr. 14; GE 1) In 2002, he received a bachelor's degree with a major in computer science. (Tr. 14-15) He has not served in the military. (GE 1)

Applicant's evaluations indicate he has excellent integrity and supports the company's ethical values. (Tr. 16; AE B; AE C) He has held a security clearance for 14 years, and there is no evidence of alcohol abuse, drug abuse, security violations, or felony-level criminal convictions. (Tr. 16; GE 1; GE 2)

### **Financial Considerations**

Applicant disclosed in his October 30, 2012 SCA and in his December 11, 2012 Office of Personnel Management (OPM) personal subject interview (PSI) that he had not filed his tax returns for tax years 2008, 2009, 2010, and 2011. (Tr. 21; GE 1; GE 2) In his OPM PSI, he said he planned to file his tax returns in December 2012 while he is on Christmas break. (GE 2) He said he was going to seek the assistance of an accountant. (GE 2)

At his hearing, Applicant said after his OPM PSI, he did not file his tax returns because he believed his security clearance hearing would occur shortly after his interview, and he thought it "would look shady" or that he was "trying to cover up [his] tracks" if he took action on his taxes. (Tr. 35)

Applicant's SOR alleges and Applicant admitted that he failed to timely file his federal and state income tax returns for tax years 2008 through 2011. (HE 2; HE 3) In 2009, Applicant was working on his 2008 tax return when his computer hard drive "died" or crashed. (Tr. 17; GE 2) His taxes for tax year 2008 were complicated because of some stock sales and the purchase of a house. (Tr. 17) After his computer problem, he became distracted by work and other commitments and did not get his taxes filed for tax year 2008 for several years. (Tr. 17) He frequently travels on behalf of his employer and taking care of his personal affairs may be difficult. (Tr. 26)

Applicant provided his federal and state tax returns for tax years 2008 through 2011, and his Internal Revenue Service (IRS)-generated federal income tax return transcripts for tax years 2011 through 2015. (AE D-AE G) The following table summarizes the tax filing dates and refund information:<sup>1</sup>

Tax Year	Date Tax Return Filed or Sent to IRS	Refund	Date State Tax Return Filed	Refund	Citation
2008	Sept. 16, 2016	\$2,240	Sept. 16, 2016	\$227	AE D
2009	Sept. 16, 2016	\$4,035	Sept. 16, 2016	\$637	AE E
2010	Sept. 16, 2016	\$3,411	Sept. 16, 2016	\$349	AE F
2011	Apr. 15, 2015	\$4,373			AE G2
2012	Apr. 20, 2015	\$3,322			AE G3
2013	Apr. 20, 2015	\$3,503			AE G4
2014	Apr. 15, 2015	\$3,579			AE G5
2015	Apr. 15, 2016	\$3,374			AE G6

Applicant did not file his tax return for tax year 2009 because he needed information from his 2008 tax return to file the tax return for tax year 2009. (Tr. 18-19) He did not file his tax return for tax year 2010 because he also needed information from his 2009 tax return to file his tax return for 2010. (Tr. 18-19) Once he failed to file tax returns for one year, he believed he could not file tax returns for the subsequent years. (Tr. 31, 35) In April 2015, Applicant filed his tax returns for tax years 2011 through 2014. (Tr. 20, 33)

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<sup>1</sup>Applicant's SOR does not allege that he did not timely file his 2012 and 2013 federal and state tax returns. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. April 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). Consideration of these two allegations will not be considered except for the five purposes listed above.

Applicant was reluctant to take the initiative or be aggressive to get his tax returns filed. (Tr. 23-24) After Applicant received the SOR in February 2016, he sought the assistant of a tax accountant. (Tr. 23) It was difficult to find professional help to file his taxes. (Tr. 37) In September 2016, with the assistance of an accountant, his 2008 through 2010 tax returns were drafted, and he signed them on September 16, 2016, the day of his hearing. (Tr. 24, 33; AE D-AE F) He expects the tax returns for 2008, 2009, and 2010 will be accepted by the IRS soon. (Tr. 34)

Applicant's income has consistently increased over the years, and Applicant took zero dependents on a Form W-4, Employee's Withholding Allowance Certificate, which maximized his tax deductions. (Tr. 18) He believed that if he did not owe any taxes that the government would not be concerned about his failure to file his tax returns. (Tr. 27, 30; GE 1) No one ever told him that he did not have to file his tax returns if he did not owe taxes. (Tr. 40) He believed that he would not owe any taxes to the federal government when he filed his tax returns. (Tr. 25) If the government determines he owes additional taxes, Applicant promised to pay whatever he owes. (Tr. 26) He intended to utilize an accountant in the future to ensure his taxes are timely filed and paid. (Tr. 26, 38)

Applicant does not have any unpaid, delinquent debts or negative entries on his credit report. (Tr. 28-30; AE H) Aside from his failure to timely file his federal and state tax returns, there are no other financial considerations concerns.

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the

possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Financial Considerations**

AG ¶ 18 articulates the security concern relating to financial problems:

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.

AG ¶ 19 provides one disqualifying condition that could raise a security concern and may be disqualifying in this case: “(g) failure to file annual Federal, state, or local income tax returns as required . . . .” Applicant’s SOR alleges and Applicant admitted that he failed to timely file his federal and state income tax returns for tax years 2008

through 2011. The record established the disqualifying condition in AG ¶ 19(g) requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(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;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;<sup>2</sup> and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government

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<sup>2</sup>The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term "good-faith." However, the Board has indicated that the concept of good-faith "requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation." Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) in order to claim the benefit of [the "good faith" mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

No mitigating conditions fully apply; however, Applicant presented some important positive financial information. His current credit report does not indicate any unpaid, delinquent debts. He does not owe any taxes to the federal or state government. I have credited Applicant with filing his tax returns for tax years 2008 to 2011 shortly after his hearing. Applicant does not have any delinquent debts. When he did file his tax returns, he did not owe any taxes.

A willful failure to timely make (means complete and file with the IRS) a federal income tax return is a misdemeanor-level federal criminal offense.<sup>3</sup> For purposes of this decision, I am not weighing Applicant’s failure to timely file his federal income tax returns against him. See also note 2, *supra*.

The negative financial considerations concerns are more substantial. Applicant failed to timely file his federal and state income tax returns for tax years 2008 through 2011. The DOHA Appeal Board has commented:

Failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information. ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002). As we have noted in the past, a clearance adjudication is not directed at collecting debts. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). By the same token, neither is it directed toward *inducing an applicant to file tax returns. Rather, it is a proceeding aimed at evaluating an applicant’s judgment and reliability. Id.* A person who fails repeatedly to fulfill his or her legal obligations does not demonstrate the high degree of good judgment and reliability required of those granted

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<sup>3</sup>Title 26 U.S.C. § 7203, willful failure to file return, supply information, or pay tax, reads:

Any person . . . required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to . . . make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor . . . .

A willful failure to make return, keep records, or supply information when required, is a misdemeanor without regard to existence of any tax liability. *Spies v. United States*, 317 U.S. 492 (1943); *United States v. Walker*, 479 F.2d 407 (9<sup>th</sup> Cir. 1973); *United States v. McCabe*, 416 F.2d 957 (7<sup>th</sup> Cir. 1969); *O’Brien v. United States*, 51 F.2d 193 (7<sup>th</sup> Cir. 1931).

access to classified information. See, e.g., ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). See *Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961).

ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016). See ISCR Case No. 14-05476 at 5 (App. Bd. Mar. 25, 2016) (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002)). ISCR Case No. 14-01894 at 4-5 (App. Bd. Aug. 18, 2015). The Appeal Board clarified that even in instances where an “[a]pplicant has purportedly corrected [the applicant’s] federal tax problem, and the fact that [applicant] is now motivated to prevent such problems in the future, does not preclude careful consideration of [a]pplicant’s security worthiness in light of [applicant’s] longstanding prior behavior evidencing irresponsibility” including a failure to timely file federal income tax returns. See ISCR Case No. 15-01031 at 3 and note 3 (App. Bd. June 15, 2016) (characterizing “no harm, no foul” approach to an Applicant’s course of conduct and employed an “all’s well that ends well” analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

In ISCR Case No. 15-01031 at 2 (App. Bd. June 15, 2016), the Appeal Board reversed the grant of a security clearance, and noted the following primary relevant disqualifying facts:

Applicant filed his 2011 Federal income tax return in December 2013 and received a \$2,074 tax refund. He filed his 2012 Federal tax return in September 2014 and his 2013 Federal tax return in October 2015. He received Federal tax refunds of \$3,664 for 2012 and \$1,013 for 2013.

Notwithstanding the lack of any tax debt, the Appeal Board provided the following principal rationale for reversal:

Failure to comply with Federal and/or state tax laws suggests that an applicant has a problem with abiding by well-established Government rules and regulations. Voluntary compliance with rules and regulations is essential for protecting classified information. . . . By failing to file his 2011, 2012, and 2013 Federal income tax returns in a timely manner, Applicant did not demonstrate the high degree of good judgment and reliability required of persons granted access to classified information.

ISCR Case No. 15-01031 at 4 (App. Bd. June 15, 2016) (citations omitted).

The negative financial and judgment information is more significant. Applicant signed his federal and state income tax returns for tax years 2008 through 2010 on September 16, 2016, and he instructed his accountant to send the tax returns to the IRS. Like the Applicant in ISCR Case No. 15-01031, he did not owe any taxes, and he was entitled to a refund for each of the tax years. Applicant’s filings were significantly less timely than the applicant in ISCR 15-01031. His explanations for not filing his tax returns justify at most a brief delay for filing his income tax returns. My assessment is



that his failure to timely file his federal and state tax returns for tax years 2008 through 2011 is based mostly on procrastination, his belief that he would not suffer any penalty so long as he was due a refund, and his failure to give filing his tax returns a high priority. His explanations do not fully mitigate financial considerations security concerns.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under Guideline F, but some warrant additional comment.

Applicant is 39 years old, and he has worked for the same employer since 2001. He is a senior software engineer. In 2002, he received a bachelor's degree with a major in computer science. Applicant's evaluations indicate he has excellent integrity and supports the company's ethical values. He has held a security clearance for 14 years, and there is no evidence of alcohol abuse, use of illegal drugs, security violations, or felony-level criminal arrests or convictions.

Applicant signed his federal and state income tax returns for tax years 2008 through 2010 on September 16, 2016, and I have credited Applicant with filing those four tax returns in September 2016. His failure to timely file his 2008 through 2011 federal and state tax returns when due raises unresolved financial considerations security concerns. When a tax issue is involved, an administrative judge is required to consider how long an applicant waits to file their tax returns, whether the IRS generates the tax returns, and how long the applicant waits after a tax debt arises to begin and complete making payments.<sup>4</sup> The primary problem here is that Applicant waited seven

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<sup>4</sup>While Applicant did not have any delinquent taxes, the recent emphasis of the Appeal Board on security concerns arising from tax cases is instructive. See ISCR Case No. 14-05794 at 7 (App. Bd. July 7, 2016) (reversing grant of security clearance and stating, "His delay in taking action to resolve his tax deficiency for years and then taking action only after his security clearance was in jeopardy undercuts a determination that Applicant has rehabilitated himself and does not reflect the voluntary compliance of

years to file his 2008 federal and state tax returns, and other tax returns were not filed timely for substantial periods of time. The positive information he submitted about his employment and non-tax financial responsibility does not fully mitigate his failure to timely file his tax returns when due.

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*, 913 F. 2d at 1401. Unmitigated financial considerations concerns lead me to conclude that grant of a security clearance to Applicant is not warranted at this time. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With a track record of behavior consistent with his obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Financial considerations concerns are not mitigated.

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rules and regulations expected of someone entrusted with the nation's secrets."); ISCR Case No. 14-01894 at 2-6 (App. Bd. Aug. 18, 2015) (reversing grant of a security clearance, discussing lack of detailed corroboration of circumstances beyond applicant's control adversely affecting finances, noting two tax liens totaling \$175,000 and garnishment of Applicant's wages, and emphasizing the applicant's failure to timely file and pay taxes); ISCR Case No. 12-05053 at 4 (App. Bd. Oct. 30, 2014) (reversing grant of a security clearance, noting not all tax returns filed, and insufficient discussion of Applicant's efforts to resolve tax liens). More recently, in ISCR Case No. 14-05476 (App. Bd. Mar. 25, 2016) the Appeal Board reversed a grant of a security clearance for a retired E-9 and cited applicant's failure to timely file state tax returns for tax years 2010 through 2013 and federal returns for tax years 2010 through 2012. Before his hearing, he filed his tax returns and paid his tax debts except for \$13,000, which was in an established payment plan. The Appeal Board highlighted his annual income of over \$200,000 and discounted his non-tax expenses, contributions to DOD, and spouse's medical problems. The Appeal Board emphasized "the allegations regarding his failure to file tax returns in the first place stating, it is well settled that failure to file tax returns suggest that an applicant has a problem with complying with well-established government rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information." *Id.* at 5 (citing ISCR Case No. 01-05340 at 3 (App. Bd. Dec. 20, 2002) (internal quotation marks and brackets omitted). See also ISCR Case No. 14-03358 at 3, 5 (App. Bd. Oct. 9, 2015) (reversing grant of a security clearance, noting \$150,000 owed to the federal government, and stating "A security clearance represents an obligation to the Federal Government for the protection of national secrets. Accordingly failure to honor other obligations to the Government has a direct bearing on an applicant's reliability, trustworthiness, and ability to protect classified information.").

### **Formal Findings**

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

Paragraph 1, Guideline F:                      AGAINST APPLICANT

Subparagraphs 1.a through 1.h:              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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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MARK HARVEY  
Administrative Judge