



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



In the matter of:

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ISCR Case No. 15-04096

Applicant for Security Clearance

Appearances

For Government: Candace Garcia, Esq., Department Counsel

For Applicant: *Pro se*

08/31/2016

Decision

HARVEY, Mark, Administrative Judge:

Applicant's federal tax returns were not timely filed for several years, and he has owed federal tax authorities thousands of dollars since the late 1990s. In the last four years, he has made progress; and his current federal tax debt is about \$38,000. He resolved the other debts alleged in his statement of reasons (SOR). Financial considerations security concerns are not mitigated. Access to classified information is denied.

History of the Case

On September 15, 2014, Applicant completed and signed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On December 22, 2015, 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. (HE 2) Specifically, the SOR set forth security concerns arising under the financial considerations guideline.

On January 12, 2016, Applicant responded to the SOR, and he requested a hearing. On March 16, 2016, Department Counsel was ready to proceed. On April 20, 2016, the case was assigned to me. On May 16, 2016, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for June 7, 2016. (HE 1) The hearing was held as scheduled.

Department Counsel offered 4 exhibits, and Applicant offered 12 exhibits. (Tr. 15-16, 19-23; Government Exhibit (GE) 1-4; Applicant Exhibit (AE) A-L) Applicant objected to GE 3 and 4, which are credit reports, because they do not reflect the current state of his finances and debts. (Tr. 16-17) Applicant was advised that it was his burden to present evidence at the hearing to rebut or clarify the content of the credit reports, and his objection was overruled. (Tr. 16-18) There were no objections to Applicant's proffered exhibits. (Tr. 23-24) On June 14, 2016, DOHA received a copy of the transcript of the hearing. On July 15, 2016, Applicant provided 16 post-hearing exhibits, which were admitted without objection. (AE M-BB) The record closed on July 15, 2016.

Findings of Fact

In Applicant's SOR response, he admitted being responsible for all of the accounts alleged in the SOR except for the account in SOR ¶ 1.m. He also provided extenuating and mitigating information. Applicant's admissions are accepted as findings of fact.

Applicant is 50 years old, and he has been employed by a defense contractor as a senior security engineer since September 2014. (Tr. 6, 8; GE 1) In 1984, he graduated from high school. (Tr. 6) From 1984 to 1987, he attended college, where he majored in business management. (Tr. 6) In 2015, he received a bachelor's degree in information technology. (Tr. 6) He never served in the military. (Tr. 6-7) From 2001 to 2008, he was a network engineer team lead for a cable television company. (Tr. 8) From 2008 to 2014, he was employed as a service and delivery manager for a different cable television company. (Tr. 8) He had periods of unemployment in 2008 and 2014. (Tr. 8) He received severance pay in 2008. (Tr. 30-31) When he left his employment in 2014, he received a \$25,000 severance; and he applied \$7,214 to pay his child support obligation. (Tr. 32)

In 1998, he married, and in 2000, he divorced. (Tr. 7; GE 1) In 2005, he married, and he has five children; however, none of them live in his household. (Tr. 7) He does not have any child support obligations. (Tr. 7) There is no evidence of alcohol, drug abuse, or felony-level criminal convictions. (Tr. 29-30; GE 1)

Financial Considerations

Applicant's SOR alleges that he owes 14 creditors \$90,892, and this total includes about \$82,000 in delinquent taxes and \$5,316 in child support. (Tr. 14) He provided summaries of his efforts to resolve each SOR debt. (SOR response; AE A; AE M)

SOR ¶ 1.c alleges a federal tax lien filed in 2005 for \$1,838. Applicant's 2005 federal tax lien was for taxes owed for three years in the late 1990s. (Tr. 33) He paid this federal tax debt in 2008. (Tr. 26, 41)

SOR ¶ 1.b alleges a federal tax lien filed in May 2011, for \$62,272. This tax lien was for tax years 2001 through 2006 as follows:

| Tax Year | Date of Assessment | Unpaid Balance or Assessment |
|----------|--------------------|------------------------------|
| 2001 | Dec. 12, 2005 | \$3,199 |
| 2002 | Oct. 3, 2005 | \$12,922 |
| 2003 | Oct. 17, 2005 | \$4,524 |
| 2004 | Aug. 3, 2009 | \$15,471 |
| 2005 | Aug. 3, 2009 | \$8,463 |
| 2006 | Aug. 3, 2009 | \$17,423 |

SOR ¶ 1.a alleges a federal tax lien filed in October 2011, for \$18,735. This tax lien was for tax years 2008 through 2010 as follows:

| Tax Year | Date of Assessment | Unpaid Balance or Assessment |
|----------|--------------------|------------------------------|
| 2008 | Sep. 12, 2011 | \$4,214 |
| 2009 | Sep. 12, 2011 | \$4,281 |
| 2010 | Sep. 12, 2011 | \$10,239 |

Applicant provided financial support, including multiple loans, to family members and a girlfriend in lieu of fully paying his federal income taxes when due. (Tr. 34-35) The IRS withdrew the tax liens. (Tr. 32; SOR response) Applicant provided proof that he has paid \$200 monthly to the IRS for 16 months; he timely paid his 2015 federal income taxes; and he has forfeited any federal income tax refund he has been scheduled to receive. (Tr. 24-25, 39-40) Actually, he has been making payments to the IRS since 2011. (Tr. 39) The current amount of his total IRS federal income tax debt is \$38,000. (Tr. 25) He has submitted two offers in compromise of his IRS debt; however, he has not learned the IRS' response. (Tr. 25) He believes he can pay off the IRS debt in 12 to 14 months if the IRS accepts his offer. (Tr. 26) He said he has timely filed his federal income tax returns since tax year 2010. (Tr. 35) The IRS initially assessed his tax debt to be more than \$100,000, and he filed his taxes for tax years 2003 to 2009 in 2010, which significantly reduced his tax debt to about \$80,000. (Tr. 37, 47)

Applicant's 2016 federal income tax transcripts provided the following information about his federal income tax status:

| Tax Year | Return Date | Adjusted Gross Income | Balance Owed | Exhibit |
|----------|---------------|-----------------------|--------------|---------|
| 2006 | Dec. 5, 2008 | \$95,179 | \$0 | Q |
| 2007 | Aug. 1, 2011 | \$97,552 | \$0 | R |
| 2008 | Aug. 1, 2011 | \$89,855 | \$5,217 | S |
| 2009 | Aug. 1, 2011 | \$90,916 | \$5,485 | T |
| 2010 | Aug. 1, 2011 | \$96,024 | \$13,744 | U |
| 2011 | May 17, 2013 | \$88,219 | \$0 | V |
| 2012 | Oct. 14, 2013 | \$100,628 | \$0 | W |
| 2013 | June 6, 2014 | \$109,121 | \$0 | X |
| 2014 | Apr. 15, 2015 | \$20,574 | \$0 | Y |
| 2015 | May 30, 2016 | \$104,576 | \$2,150 | Z |

In May 2016, the IRS wrote Applicant and said he owed \$38,087 for tax years 2004, 2005, 2008, 2009, and 2010. (Tr. 42-43) The tax year 2006 debt, which was previously estimated at \$17,423 in the IRS lien, was not included in the IRS summary of his debt because after he filed his return, the balance owed was zero. (Tr. 48) In July 2016, Applicant offered to settle his federal income tax debt of \$38,087 for \$9,500. (AE N-AE P)

Applicant paid the four medical debts in SOR ¶¶ 1.d for \$150, 1.e. for \$91, 1.g for \$145, and 1.j for \$150. (Tr. 26-28, 43-44; AE D; GE 4 at 2; GE 3 at 13) In 2013, he paid his child-support debt in SOR ¶ 1.i for \$117. (Tr. 27, 44-45; AE H; GE 3 at 14) In February 2016, he paid his child support arrearage in SOR ¶ 1.f for \$5,316, and he also provided financial support to his daughter, who was attending college. (Tr. 26-27, 46)

Applicant disputed the telecommunications debt in SOR ¶ 1.h for \$1,302 as fraudulent; he sent documentation to the three credit reporting companies; and the negative entry was removed from his credit report. (Tr. 27) He paid the parking tickets in SOR ¶¶ 1.k for \$55 and 1.l for \$55. (Tr. 28) He disputed the debt in SOR ¶ 1.m for \$240 as erroneous; he sent correspondence to the creditor; and the negative entry was removed from his credit report. (Tr. 28, 45-46; GE 3 at 16; AE BB) In 2013, Applicant paid his cell phone bill for \$427 in SOR ¶ 1.n. (Tr. 28-29) He has not received financial counseling.

In sum, Applicant resolved the debts in SOR ¶¶ 1.c through 1.n. (Tr. 51) He is making progress resolving the tax debts in SOR ¶¶ 1.a and 1.b.

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 three disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability or unwillingness to satisfy debts;" "(c) a history of not meeting financial obligations;" and "(g) failure to file annual Federal, state, or local income tax returns as required" Applicant's SOR alleges that he owes 14 creditors \$90,892, and this total includes about \$82,000 in delinquent taxes and \$5,316 in child support. He admitted that he failed to timely file his federal tax returns, and he currently owes about \$38,000 in federal income taxes.

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). The Government established the disqualifying conditions in AG ¶¶ 19(a), 19(c), and 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;¹ 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 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 mitigating information. He had variations in his income, and he was unemployed in 2008 and 2014. Family and friends had financial problems, and he provided financial assistance to them. These unusual circumstances were beyond Applicant's control and caused or contributed to Applicant's financial problems. Applicant disputed the debts in SOR ¶¶ 1.h and 1.m, and those debts were removed from his credit report. He has not

¹The 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)).

received financial counseling. Applicant is credited with mitigating the financial allegation in SOR ¶¶ 1.c through 1.n.

Applicant failed to withhold sufficient funds from his salary to pay his share of his federal income taxes. He failed to timely file his federal tax returns. 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 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).

Applicant consistently paid \$200 monthly since 2011 to address his delinquent federal income tax debt. His federal income tax refunds were intercepted and applied to his delinquent tax debt. He made an offer to settle his \$38,000 IRS tax debt for \$9,500. Notwithstanding these positive developments, he has owed taxes to the federal government since the late 1990s. Financial considerations concerns are not mitigated.

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 50 years old, and he has been employed by a defense contractor as a senior security engineer since September 2014. From 1984 to 1987, he attended college, where he majored in business management. In 2015, he received a bachelor's degree in information technology. From 2001 to 2008, he was a network engineer team lead for a cable television company. From 2008 to 2014, he was employed as a service and delivery manager for a different cable television company. He has periods of unemployment in 2008 and 2014. He does not have any child support obligations. There is no evidence of alcohol, drug abuse, or felony-level criminal convictions.

The SOR alleges three federal tax liens totaling more than \$80,000 and those liens resulted from multiple tax years going back to the late 1990s. His current federal tax debt is about \$38,000. He failed to timely file his federal tax returns for multiple tax years. His history of failing to fully pay his federal income taxes when due raises unresolved financial considerations security concerns.² When an issue of delinquent taxes 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.³

²See 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.").

³See 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 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

The primary problem here is that Applicant has owed thousands of dollars to the IRS since the late 1990s. His financial support for family and friends is a positive character trait; however, it does not fully mitigate his failure to pay his federal income taxes when due. He did not prove his inability to make greater progress resolving his tax debts.

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 more effort towards documented resolution of his past-due debt, and 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.

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 and 1.b: | Against Applicant |
| Subparagraphs 1.c through 1.n: | For Applicant |

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).

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.

MARK HARVEY
Administrative Judge