



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



In the matter of:)	
)	
(Redacted))	ISCR Case No. 16-01875
)	
Applicant for Security Clearance)	

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

08/23/2017

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant's record of delinquency includes a federal tax lien of \$22,166 from 2010, deficiency balances of \$3,852 and \$3,301 on loans for repossessed vehicles, and a \$536 collection debt. Applicant began repaying his income tax delinquency in August 2010 in varying amounts depending on the installment agreement. He still owes approximately \$8,371 in federal tax debt and has yet to address one of the car loans, which had accrued to \$5,056 as of April 2016. While he has made significant progress toward addressing his federal tax issues, he continues to display questionable financial judgment. Clearance is denied.

Statement of the Case

On August 31, 2016, 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 (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG) effective within the DOD on September 1, 2006.

On October 22, 2016, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On March 2, 2017, 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 Applicant. On March 9, 2017, I scheduled a hearing for March 29, 2017.

Due to an opening in the schedule, Applicant's hearing was held on March 28, 2017 with the agreement of both parties. Two Government exhibits (GEs 1, 3) and five Applicant exhibits (AEs A-E) were admitted into evidence without objection. A summarized report of subject interview was marked for identification as GE 2, but was withdrawn on Applicant's expressed concerns about its accuracy. Applicant testified, as reflected in a transcript (Tr.) received on April 5, 2017.

I held the record open until April 28, 2017, for Applicant to submit additional documentation. No further exhibits were submitted by the deadline. Accordingly, the record closed on April 28, 2017.

While this case was pending a decision, the Director of National Intelligence (DNI) issued Security Executive Agent Directive 4 establishing the National Security Adjudicative Guidelines (AG) applicable to all covered individuals who require national security eligibility or eligibility to hold a sensitive position. The AG supersede the adjudicative guidelines implemented in September 2006 and are effective for any adjudication made on or after June 8, 2017. Accordingly, I have adjudicated Applicant's security clearance eligibility under the new AG.¹

Summary of Pleadings

The SOR alleges under Guideline F that, as of August 2016, Applicant had not paid a federal tax lien for \$22,166 from 2010 (SOR ¶ 1.a), deficiency balances of \$3,852 (SOR ¶ 1.b) and \$3,301 (SOR ¶ 1.d) on loans for vehicles that had been repossessed, and a \$536 collection debt (SOR ¶ 1.c). When he answered the SOR, Applicant stated that he had a payment arrangement or agreement for his federal taxes, had a payment arrangement in process for the car loan debt in SOR ¶ 1.b, had paid in full the collection debt in SOR ¶ 1.c, and had settled the car loan debt in SOR ¶ 1.d.

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact. Applicant is a 71-year-old senior electronic engineer, who has worked for his defense contractor employer for 33 years. He holds a DOD secret clearance, which was last renewed in March 2006. Applicant and his spouse have been married for 45 years, and they have a grown son and daughter. Another child, the elder of their two sons, died in 1995. (GE 1; Tr. 30-31.) They purchased their home in September 1989, obtaining a joint mortgage loan for \$65,000. Applicant obtained a second mortgage for \$65,000 in his name only. In January 2007, they paid off both mortgages and obtained a new mortgage loan for \$140,250. In August 2007, Applicant obtained a home-equity loan for \$51,140. (GE 3.)

Applicant and his spouse's three children attended parochial schools. Their oldest son attended private high school and then died at age 23 just before he was to graduate from college. Their daughter attended the same private high school her freshman year before transferring to public high school. Their younger son attended the same public high school. All three children went on to college. Applicant earned \$45,000 to \$50,000 at the time. His youngest son obtained his undergraduate degree in the early 2000s and his master's degree in 2005 or 2006. Applicant and his spouse decided to make their children's educations their priority over their comfort and

¹ Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case.

retirement. Applicant “pretty much drained” his retirement account at work for their tuitions and other college costs. He paid for 85% of his daughter’s education at a private college. (Tr. 33-38.) For tax years 2005 and 2006, Applicant had insufficient income withheld for taxes so that he could pay for college expenses, and he could not afford to pay the taxes owed when they came due. (Tr. 39-40.)

IRS account transcripts reveal that Applicant filed his federal income tax returns late for several years. His return for 2005 was filed on October 18, 2010. He filed as head of household with adjusted gross income of \$76,158. As of October 2016, he owed federal income taxes of \$2,465 for 2005 with no record of payments applied to his debt for tax year 2005. (AE A.) Applicant filed his return so late because of anxiety. He had been withdrawing retirement funds and could not pay the taxes that he owed. (Tr. 57-58.)

In November 2007, the IRS inquired about his failure to timely file his federal income tax return for 2006. IRS records reflect that his return was received on July 29, 2008, but also that the IRS filed a substitute return on September 1, 2008. Applicant filed an amended return in June 2009, reporting adjusted gross income of \$118,450. In late May 2010, the first of five installment agreements was established.² Applicant made only two payments, of \$220 in late August 2010 and \$262 in late September 2010. In December 2010, the IRS placed a lien for \$22,166 (SOR ¶ 1.a). (GE 3; AE A.) Under a new installment agreement, he made payments totaling \$7,648 between December 21, 2010, and May 9, 2012. Applicant, who had not been consistent in his tax payments, responded to an advertisement for tax relief. He retained the services of a new tax relief company and was told to stop paying pending a new agreement. (Tr. 76.) In October 2012, the IRS levied his wages for \$959. Under a new installment agreement, Applicant made monthly payments of \$297 from January 2013 through July 2013. He stopped paying and his account was considered no longer in installment agreement status while he retained the services of yet another entity to represent him before the IRS. In December 2013, the IRS levied his wages for \$1,722. Under a new installment agreement established on December 18, 2013, Applicant made an initial payment of \$195 in February 2014 following by \$300 monthly payments for two years. On April 29, 2016, the IRS removed the tax lien. In June 2016, Applicant entered into a new installment agreement with the IRS under which he paid \$325 in July 2016 and in August 2016. His payments in May and June 2016 were applied to his federal tax liability for 2009. With the IRS’ application of Applicant’s tax refunds for tax years 2007 (\$434), 2014 (\$2,702), and 2015 (\$2,471) to his debt for tax year 2006 and Applicant’s payments, his income tax debt for 2006 had been reduced to \$1,803 as of October 2016. (AEs A, C.) Applicant testified that he has continued to make \$300-\$340 monthly payments to the IRS under his present installment agreement. (Tr. 60, 64-65.)

Applicant filed his federal income tax return for 2007 on May 9, 2008, reporting adjusted gross income of \$86,910. He had an extension of time to file for 2007. (Tr. 61.) His refund for that year was applied to his tax debt for 2006. His return for tax year 2008 was filed on June 4, 2009, and the IRS assessed a penalty for late payment. Applicant paid \$822 in August 2009 to satisfy his tax liability on adjusted gross income of \$99,417 for 2008. (AE A.) Applicant attributes his late tax filing to procrastination. (Tr. 62.)

Applicant did not file his federal income tax return for tax year 2009 until October 2010. He reported adjusted gross income of \$96,337. He was assessed penalties for late filing and late payment of tax. In April 2016, \$834 of his income tax refund for 2015 was taken and applied to his

² Applicant explained that he made so many installment agreements because he responded to a television advertisement about tax debt relief, and after he paid \$1,500 to \$2,000, was told that the person no longer worked there. He “got burned” by three tax relief companies and for over \$5,000 total before he contacted the IRS himself and arranged for monthly payments. He thought that the tax relief company would negotiate a settlement with the IRS to lower his tax liability. (Tr. 72-75.)

debt for tax year 2009. On May 2, 2016, the IRS notified Applicant that he owed \$1,583 for tax year 2009. He made payments of \$300 each in May 2016 and June 2016 to lower his tax liability to \$997 as of October 2016. (AEs A, C.)

Applicant filed timely federal income tax returns for tax years 2010, 2011, and 2012. He submitted a payment of \$1,958 with his return on adjusted gross income of \$97,328 and has no outstanding tax liability for tax year 2010. He was assessed penalties for late payment of taxes for 2011 on adjusted gross income of \$93,672 and for 2012 on adjusted gross income of \$89,866. As of October 2016, he owed the IRS \$1,968 for 2011 and \$1,138 for 2012. (AE A; Tr. 63.) There is no evidence that Applicant filed late returns for tax years 2013 through 2015. (Tr. 63.) As of his hearing in March 2017, Applicant's federal income tax return for 2016 was not yet due. He anticipated that he had overpaid his income taxes and that his refund would be taken by the IRS and applied to his income tax delinquency which he estimated was around \$7,000.³ (Tr. 40, 78.)

To renew his security clearance eligibility, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) on October 20, 2015. In response to financial record inquiries concerning delinquency involving routine accounts, Applicant disclosed that he was over 120 days past due for \$1,260 (SOR 1.b) and \$1,580 (SOR ¶ 1.d) on two "predatory" car loans. (GE 1.) Applicant elaborated at his hearing, and his credit report shows (GE 3), that he bought two vehicles from the same dealer in December 2010, which were financed by the lender in SOR ¶ 1.b through loans of \$11,811 and \$10,741. Applicant purchased the vehicle in SOR 1.d without a valid title with the understanding that the title would be acquired later. He explained that the dealer somehow managed to get the vehicle temporarily registered without a title. His loan for that vehicle was subsequently acquired by the creditor in SOR ¶ 1.d. When he did not have the title needed to register the vehicle in 2012, he stopped paying on both auto loans, even though he had no title problem with the other car. Both vehicles were repossessed. (Tr. 42-46, 50-53.) He indicated on his SF 86 that he was determined to make repayment arrangements on the loans. Applicant listed no other past-due debts. He responded negatively to an inquiry into whether he had failed to file or pay federal, state, or other taxes when required by law or ordinance in the last seven years. (GE 1.)

As of November 10, 2015, Applicant reportedly owed respective balances of \$3,852 and \$3,301 on the automobile loans after repossession of the vehicles. There had been no activity on either loan since August 2012. An insurance debt of \$536 (SOR ¶ 1.c) was in collection since March 2014. The federal tax lien from December 2010 was still on his credit record. Applicant's and his spouse's mortgage loan was current with a balance of \$115,190, although the loan had been past-due 30 days 35 times, including in August 2015. Applicant's home-equity line of credit had not been delinquent since January 2014, when it was 60 days past due. (GE 3.)

On April 22, 2016, Applicant was billed \$5,056 by the creditor in SOR ¶ 1.b for his defaulted loan balance plus interest and late charges. (AE E.) As of March 2017, Applicant had yet to arrange for repayment. Applicant testified that the bank was dissolved, but that he contacted the local office and was told that he can make payments but only by mail. He wanted to make his payments in person. If the bank takes him to court on the debt, he will settle it. As of March 2017, he did not have \$5,000 on hand to settle the debt. He had about \$1,800 in checking deposits and nothing in savings. (Tr. 53-55.)

³ Applicant testified that he is just beginning to sleep a little because his IRS debt is now a manageable \$7,000. (Tr. 40, 78.) Available IRS account transcripts show that Applicant owed \$2,465 for 2005, \$1,803 for 2006, \$997 for 2009, \$1,968 for 2011, and \$1,138 for 2012 as of October 10, 2016. (AE A.) Assuming he continued to pay \$300 a month and with interest continuing to accrue, he may well owe approximately \$7,000 as of late March 2017.

On April 29, 2016, the collection entity for the loan deficiency in SOR ¶ 1.d agreed to settle Applicant's \$3,226 past-due balance for a lump-sum payment of \$900 due that day. Applicant paid \$900 by personal check. (AE D; Tr. 46.) Applicant testified that the insurance debt in SOR ¶ 1.c was paid in full (Tr. 47-48), although he provided no proof of payment.

Applicant's take-home pay is approximately \$1,600 every two weeks on annual income of approximately \$92,000. His monthly mortgage payment is between \$1,100 and \$1,200. He has rented a vehicle on a weekly basis at an average cost of \$500 a month since 2012 or 2013. (Tr. 71.) He pays \$40-\$50 for his Internet service. He estimated that he has about \$600 to \$700 in discretionary income each month. (Tr. 38, 66-69.) Applicant's spouse is retired. She has a pension, but she maintains her own financial accounts. (Tr. 66, 70-71.)

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(a), 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 national security eligibility will be resolved in favor of the 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 EO 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F: Financial Considerations

The security concerns about financial considerations are articulated in AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

An applicant is not required to be debt free, but is required to manage his finances in a way as to exhibit sound judgment and responsibility. Applicant exhibited poor financial judgment in several aspects. In approximately August 2012, he stopped paying on car loans for two vehicles that he purchased from the same dealer. His rationale is that one of the vehicles was sold without a valid title, and although he was able to register the vehicle initially, he could not re-register it without the title. He admitted that his frustrations over that vehicle led him to stop paying on his other loan, even though there was no problem with the title for that vehicle. As of October 2015, he owed \$3,852 and \$3,301 on the defaulted automobile loans and a \$536 insurance debt in collection since March 2014. Disqualifying conditions AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," apply. AG ¶ 19(b), "unwillingness to satisfy debts regardless of the ability to do so," is implicated in that Applicant had no reasonable justification for defaulting on the car loan for the vehicle with a valid title.

Available IRS transcripts show that Applicant filed late federal income tax returns for tax years 2005 and 2006 because he did not have the funds to pay taxes owed. He filed late returns for 2008 and 2009 because of procrastination. The IRS filed a tax lien against him for \$22,166 in December 2010, which included penalties assessed for late filing and late payment for 2006. The SOR alleges only the tax delinquency as of 2010 and not the late tax filings or his additional tax delinquencies.⁴ Even so, AG ¶ 19(f), "failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required," is clearly established.

Applicant has the burden of presenting evidence of explanation, extenuation, or mitigation to overcome the security concerns raised by his record of delinquency. Under the AG effective for any adjudication on or after June 8, 2017, a record of consumer credit and tax delinquency may be mitigated under one or more of the following conditions under ¶ 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;

⁴ It is unclear whether Applicant filed timely state income tax returns. No evidence was presented in that regard.

(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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

The federal tax lien was filed to recover his tax delinquency for tax year 2006. The consumer vehicle loan defaults are from 2012. These debts were not incurred recently. However, it is difficult to conclude that the debts do not cast doubt on Applicant's current reliability, trustworthiness, or good judgment because of the persistent nature of Applicant's federal tax problems and his failure to take reasonable steps to address the defaulted loan in SOR ¶ 1.b. Applicant failed to file timely federal income tax returns for several tax years, including 2008 and 2009, and to pay federal income taxes owed when they were due for tax years 2005, 2006, 2008, 2009, 2011, and 2012. As of October 2016, Applicant owed federal tax debt totaling approximately \$8,371. Additionally, as recently as April 2016, the creditor in SOR ¶ 1.b was pursuing Applicant for a car loan deficiency balance, which had accrued to \$5,056 because of interest and late charges. AG ¶ 20(a) does not mitigate the security concerns raised by ongoing delinquency.

AG ¶ 20(b) does not apply because the tax and consumer credit delinquencies were the result of Applicant's poor financial decisions. He claimed exemptions from income withholding in 2005 and 2006 so that he could take home more of his pay. He chose to take premature withdrawals from his retirement to pay for college for his children. While college is not a frivolous expense, his decision had tax implications. His tax debt includes tax penalties for late filing of some returns. AG ¶ 20(b) does not mitigate his procrastination in addressing his federal tax issues or the very poor judgment he exhibited by then failing to comply with established installment agreements by changing tax relief firms in response to television advertisements. Concerning the loans in the SOR, Applicant purchased the car in SOR ¶ 1.d, apparently knowing that the dealer did not have a title. He defaulted on the other car loan because he was frustrated over problems with the title for the other car.

AG ¶ 20(c) and AG ¶ 20(d) have some applicability because Applicant settled the car loan debt in SOR ¶ 1.d for \$900 in late April 2016. He indicated in response to the SOR that he paid the \$536 insurance debt in full. He presented proof of payments toward his taxes and candidly admitted that he had made no payments on the car loan in SOR ¶ 1.b, and his credibility on those issues leads me to accept his claim of satisfaction of the insurance debt without corroborating documentation. Neither AG ¶ 20(c) nor ¶ 20(d) mitigate his lack of progress toward resolving the car loan delinquency in SOR ¶ 1.b. Applicant testified discrepantly that the bank was dissolved, but that he was able to reach the office at which he apparently obtained the loan (*i.e.*, the address he provided is consistent with that for the bank on his credit report). He was told that he could make payments, but not in person. While I can appreciate that Applicant would want assurances of

payments being credited to his loan, Applicant is not in a position to dictate how he should make the payments. The April 2016 loan billing statement from the bank provided a mailing address for any payments. Furthermore, Applicant has not had any of the credit counseling required for full mitigation under AG ¶ 20(d), even though his handling of his retirement assets and the car loans would suggest he could benefit from some financial counseling.

Concerning Applicant's tax issues, noncompliance with tax filing deadlines and tax payments is irresponsible behavior that raises doubts about whether he can be counted on to fulfill the obligations of his security clearance. That being said, he caught up with his delinquent federal returns on October 18, 2010, when he filed his return for 2005. He filed his income tax returns for 2006 through 2009 before his 2005 return. He has yet to fully resolve his federal income tax payment issues. IRS transcripts show that he has paid more than \$18,000 toward his past-due taxes since August 2010. With interception and application of tax refunds and payments, his tax debt was a more manageable \$8,731 as of October 2016. Applicant testified in March 2017 that he has continued to pay the IRS \$300 to \$325 a month. He had an opportunity to provide proof of those payments and did not do so. He has not always been in compliance with his installment agreements. Applicant's retention and cancellation of tax resolution services in the hope of a more advantageous settlement of his federal tax issues led him to miss some tax payments in the fall of 2010, from June 2012 through December 2012, and from August 2013 through December 2013, and the IRS cancelled established installment agreements. He claims he "got burned" by three separate tax resolution companies to which he paid \$5,000 that could have gone directly to his tax debts. Yet, he has a track record of consistent payments to the IRS since February 2014, most of which were applied to his debt for tax year 2006. He made \$300 payments in May and June 2016, which were applied to his tax delinquency for 2009. The IRS removed the tax lien in April 2016, presumably because of his payments.

The security clearance adjudication is not aimed at collecting an applicant's personal debts. Rather, it involves an evaluation of an applicant's judgment, reliability, and trustworthiness in light of the security guidelines in the Directive. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). In evaluating Guideline F cases, the Appeal Board has established that an applicant is not required to pay off every debt in the SOR:

The Board has previously noted that the concept of a meaningful track record necessarily includes evidence of actual debt reduction through payment of debts. However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he has established a plan to resolve his financial problems and taken significant actions to implement that plan. The Judge can reasonably consider the entirety of an applicant's financial situation and evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic.

See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Applicant has made enough progress toward resolving his federal tax issues to inspire confidence that he will continue to make his payments to the IRS, provided he has the income to do so. Given his insistence on wanting to pay the car loan debt in SOR ¶ 1.b in person, when he has been told he cannot do so, I do not have similar confidence that he will make payments toward that debt. Applicant's annual salary is about \$92,000 a year and yet he has only \$1,800 in checking deposits and nothing in savings, perhaps because he has been paying approximately \$500 a month to rent a car since 2012 or 2013. He also has a history of late payments on his home

mortgage loan, including in September 2015, which is additional evidence of financial mismanagement. The financial considerations security concerns are not fully mitigated.

Whole-Person Concept

In the whole-person evaluation, 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(d).⁵ Some of the factors in AG ¶ 2(d) were addressed under Guideline F, but some warrant additional comment.

Applicant and his spouse prioritized their children's educations over their own comfort and future financial security. While laudable from a parental standpoint, his decisions to drain his retirement fund and claim exemptions from tax withholding had tax consequences that have affected his personal finances and apparently also caused him some sleepless nights over the past ten years. He exhibited poor judgment by buying a car without a title and later defaulting on a separate car loan simply because he was upset with the dealer.

Applicant has worked for the same defense contractor since 1984. While he presented no character reference information, it may reasonably be inferred from his longevity at the company that his work has met his employer's expectations. His outstanding delinquency totals less than \$15,000, which is not an insurmountable debt burden on his salary of \$92,000 annually. At the same time, his default of a car loan because he had problems with another vehicle's title and his lack of any progress toward that debt is ongoing evidence of financial irresponsibility that is not mitigated by a stated intention to settle if he is brought to court. He has had some difficulties paying his debts on time, despite income that should be sufficient to cover his expenses. Applicant's history of tax delinquency includes \$1,968 for tax year 2011, when his adjusted gross income was \$93,672, and \$1,138 for tax year 2012, when his adjusted gross income was \$89,866. As of October 2015, his mortgage loan payments had been 30 days late some 35 times. 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). For the reasons noted above, I conclude that it is not clearly consistent with the national interest to grant Applicant security clearance eligibility.

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**

⁵ The factors under AG ¶ 2(d) are as follows:

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

Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

Conclusion

In light of all of the circumstances, it is not clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge