



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



In the matter of:)
)
) ISCR Case No. 14-04739
)
Applicant for Security Clearance)

Appearances

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

10/02/2015

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant did not pay his self-employment income taxes to the Internal Revenue Service (IRS) when they were due for tax years 2011 and 2012. An IRS tax lien was filed for \$35,849 in December 2013. By July 2007, he owed delinquent credit card debt of \$29,684 on two accounts. Despite high income, these debts went unpaid until October 2014, when he settled the credit card debt for \$14,600 and paid off his delinquent taxes for 2011 and 2012. He has yet to demonstrate an ability to pay all his debts without relying on a loan. Clearance is denied.

Statement of the Case

On January 29, 2015, 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 his security clearance eligibility. The DOD CAF took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security*

Clearance Review Program (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant answered the SOR allegations on February 13, 2015, and he requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 21, 2015, 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. I scheduled the hearing for May 13, 2015.

I convened the hearing as scheduled. The Government submitted four exhibits (GEs 1-4), and Applicant submitted six exhibits (AEs A-F), which were admitted without any objections. Applicant testified, as reflected in a transcript (Tr.) received on May 20, 2015.

At Applicant's request, I held the record open for three weeks for him to submit additional documentary evidence. On June 2, 2015, Applicant submitted nine exhibits. Department Counsel filed no objections by the June 15, 2015 deadline for comment. Applicant's submissions were marked and received as AEs G-O.

On July 27, 2015, Applicant requested that I reopen the record to allow for the receipt of another document (AE P). Since his case was still pending a decision, I reopened the record. Department Counsel filed no objections by the August 7, 2015 deadline for comment. Accordingly, the document was accepted into evidence as AE P.

Summary of Pleadings

The SOR alleges under Guideline F that the IRS filed a tax lien against Applicant for \$35,849 in December 2013 and that it had not been released as of the issuance of the SOR on January 29, 2015 (SOR 1.a). Additionally, the SOR alleges that Applicant owed a \$16,943 credit card judgment lien (SOR 1.b) and a \$12,741 credit card collection debt (SOR 1.c) as of January 29, 2015.

In his response to the SOR, Applicant cited his change in compensation from employee to contractor in tax year 2011, which led to a decrease in his income until tax year 2013. He was unable to meet his additional tax burden and also pay his other financial obligations. With the refinancing of his home loan in September 2014, he was able to resolve the federal tax lien, which was released in October 2014. Applicant contested the reported balances of the credit card debts, although not that they had fallen delinquent. He explained that after eight months of unemployment, he took a position at \$70,000 less in annual salary from his previous job. He indicated that he "elected to allow a judgment lien" on the account in SOR 1.b, knowing that he would eventually repay the debt. He added that he settled both credit card debts for a negotiated sum in September 2014. (Answer.)

Findings of Fact

Applicant's admissions to the tax lien and record of credit card delinquency are accepted and incorporated as factual findings. After considering the pleadings, exhibits, and transcript, I make the following additional findings of fact:

Applicant is 55 years old, and he has been employed as an engineer with a defense contractor (company X) since July 2012. He is currently the vice president of engineering. (Tr. 22.) He seeks a Top Secret security clearance. He has not previously held a DOD security clearance. (GE 1; Answer.)

Applicant earned an associate degree in May 1982. (GE 1; Tr. 20.) Applicant and his spouse have been married since February 1987. (Tr. 23.) They have one daughter and two sons, who are now ages 27, 25, and 19. Applicant and his spouse bought their home in January 1995. It has served as their residence since March 1995. (GE 1.) Their two sons still live at home. (Tr. 24.)

Applicant was unemployed for about eight months after he lost his job in 2000. Due to a loss of about \$70,000 in income, he struggled to meet his financial obligations. (GE 4; Tr. 75.) From November 2001 to July 2004, Applicant worked as a service manager for a computer network company. (GE 1.) They apparently used the equity in their home to meet some expenses. They took on a \$247,500 mortgage in August 2002, only to refinance in December 2003 for \$252,000. In November 2004, Applicant took on a home equity loan of \$140,500. (GE 2.) In July 2005, they opened a \$45,766 home improvement loan. (GE 3.)

In August 2004, Applicant began working as a vice president of services for a technology company. (GE 1; Tr. 21.) By early 2007, Applicant stopped making any payments on a VISA credit card account that he had opened in September 1999 (SOR 1.b). As of mid-July 2007, Applicant owed a delinquent balance of \$16,943.78 on that VISA account and another \$12,741.79 in past-due debt on a MasterCard account with the same lender (SOR 1.c). (GE 3; AE B.) The assignee collecting the debts eventually pursued collection in court. (AE B.) According to Applicant, the creditor wanted payments exceeding \$5,000, which he could not afford. (GE 4.) Applicant fell behind 30 to 60 days on some other revolving charge accounts and on a home equity loan between late 2007 and early 2008, although he caught up on those debts. (GE 2.) The debts in SOR 1.b and 1.c went unpaid, even as Applicant continued to take on new credit card debt, including for a vacation with his spouse to the Caribbean in February 2011. (Tr. 36-37.)

Around November 2008, Applicant's then employer ceased operations and sold its assets to another technology company (company Y). Applicant transitioned to the position of director of customer service with company Y, but he was paid as a self-employed consultant. He earned approximately \$145,000 annually, which was down from the \$160,000 salary of his previous job. (Tr. 23-25.) He also had medical costs of \$1,400 a month in Cobra. (AE G.)

In 2008 or 2009, Applicant and another individual started their own limited liability corporation. Applicant supplemented his income from his full-time job with company Y by consulting part-time for company X. (GE 4.)

As a 1099-C full-time consultant for company Y, Applicant had to pay his own Medicare and Social Security taxes. Initially, he did not realize that he had to pay the taxes (Tr. 25), and he did not make estimated income tax payments in 2011. On April 15, 2012, Applicant and his spouse filed a joint income tax return listing \$156,637 in adjusted gross income. They had only \$1,766 in tax withheld that year, which was from his spouse's pay, on a tax debt of \$36,093. (Tr. 27-28.) Applicant could not afford to pay the taxes due when they filed their return. (Tr. 28.) He cannot explain why he lacked the funds to cover his income tax debt other than that he had tuition for his son. (Tr. 31.) The IRS assessed penalties and interest for non-payment, including a \$623 penalty for not paying \$15,033 in self-employment tax. Applicant made federal tax payments of \$105 in August 2012, \$1,948 in September 2012, and nine payments of \$2,000 each per month from October 2012 through June 2013. (AEs C, G.) The IRS stopped the automatic withdrawal after he filed his tax return for tax year 2012 and owed a sizeable tax debt for that year as well. (Tr. 32.) For the first half of the year, Applicant should have filed estimated taxes, and he failed to do so. (Tr. 27.)

In July 2012, Applicant began working directly for company X as a full-time principal engineer at an annual salary of \$175,000 while continuing to provide some consulting services to company Y. (GEs 1, 4; Tr. 23.) Applicant did not pay self-employment estimated taxes of \$7,084 in tax year 2012. He had three mortgages, three car payments, and tuition bills for his son at the time that for him took priority over his taxes. (Tr. 35.) He and his spouse had only \$8,743 in income taxes withheld on adjusted gross income of \$169,535 in 2012. Their tax liability was \$30,493. (AEs A, C.) His spouse is an administrative assistant at a local college, where she earns about \$24,000 annually. (Tr. 26.)

On May 22, 2013, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP). In response to the financial record inquiries concerning any unpaid taxes in the last seven years, Applicant disclosed that he owed approximately \$25,000 in federal tax debt for tax year 2011, but that he was making \$2,000 monthly payments under an installment plan. He also indicated that he had owed \$3,700 in state income taxes for 2011, which he paid in March 2013. Concerning any other liens, Applicant reported that a credit card lender had placed a lien against his property for \$15,000 in delinquent debt and that he had attempted to negotiate with the credit lender without success. (GE 1.) A check of Applicant's credit on June 8, 2013, revealed that he owed about \$29,684 in credit card debt to the lender listed on his e-QIP. (GE 3.)

On June 19, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). He explained that he had received a 1099-C from company Y for tax year 2011 and that he did not pay enough quarterly taxes. He indicated that he had been paying off his federal tax debt at \$2,000 per month since November 2012. He admitted that he had a lien against his property filed by a consumer credit lender because of nonpayment of either a VISA or MasterCard account. He attributed the

delinquent credit card balance to about a year of unemployment after he lost his job in 2000 and to having to pay on student loans for his children. He denied any other delinquent debts. When confronted about the delinquent account identified in SOR 1.c, he disputed the debt, but he also did not know any details about the account. Applicant added that he attempted to refinance his mortgage to pay off his debts, but he was unable to do so because of the credit card lien and his poor debt-to-credit ratio. (GE 4; Tr. 41.)

As of July 2014, Applicant was making timely payments of \$2,423 on his and his spouse's primary mortgage balance of \$97,066; \$1,026 on a home equity loan with a \$98,330 balance; and \$641 per month on a \$44,255 line of credit. He was also making monthly car payments of \$564 on a lease taken out in December 2010 for \$33,592 (balance \$16,677) for her car and of \$375 on a loan opened in October 2012 for \$18,993 (balance \$13,391) for their son's truck. Applicant drives a 2005 sedan that he paid off. (GE 2; Tr. 42-43.) They were making timely payments on credit card balances on his credit record totaling \$27,987, \$1,214 of which was owed on an account on which he is an authorized user. Applicant opened a new credit card account in May 2014 to purchase a computer for \$1,628. (GE 2; Tr. 72.) In 2014, Applicant bought on credit a \$6,000 air conditioning unit for a large addition to their home. (Tr. 68-69.)

IRS records show a notice of federal tax levy was refused or unclaimed in October 2013. On December 20, 2013, the IRS filed a tax lien of \$35,849.40 (\$13,961.47 for 2011 and \$21,887.93 for 2012) (SOR 1.a) against Applicant and his spouse. On March 13, 2014, they entered into an installment agreement with the IRS to repay their outstanding tax delinquencies for tax year 2011 and 2012. Following an initial payment of \$1,348 on May 27, 2014, they paid \$1,400 per month through September 2014. (AE A.) They refinanced their mortgage and home equity loans, on which they owed approximately \$239,000, through a new mortgage in September 2014 for the funds to address their IRS tax delinquency and his credit card delinquency. As of May 2015, the balance of the new mortgage was \$306,000 and their monthly payment was \$2,888.35. (Tr. 38-39.) On October 1, 2014, Applicant settled his credit card debt with the lender in SOR 1.b and 1.c for \$14,600 (AE B), although the lender had not filed to remove the lien as of May 2015. (AE G.) On October 2, 2014, Applicant and his spouse made a \$36,668 payment to the IRS, \$24,478.06 of which was credited to their debt for 2012. On October 24, 2014, the IRS released the tax lien. (AEs A, C; Tr. 41.)

Applicant and his spouse filed a timely request for an extension to October 2014 to file their federal income tax return for tax year 2013. Their accountant filed their return on October 8, 2014, which was rejected by the IRS because their son had erroneously and without their knowledge filed his own income tax return claiming himself as a dependent. On April 9, 2015, their accountant prepared and filed an amended 2013 tax return for them. (AE O.) On adjusted gross income of \$197,675 for 2013, Applicant and his spouse owed unpaid federal taxes, penalties, and interest totaling \$8,696.01 as of July 27, 2015. (AE P.) They underpaid their state income taxes by \$1,078. (AE H.) They paid their 2013 state tax debt on April 30, 2015. (AE K.)

Applicant and his spouse filed timely federal and state income tax returns for tax year 2014. On adjusted gross income of \$199,072, they had an unpaid federal tax liability

of \$10,209.81 as of July 13, 2015. (AE P.) They underpaid their state income taxes by \$1,386, which they paid on April 30, 2015. (AEs I, L.) They had filed a request for an installment agreement to repay their federal tax delinquencies for 2013 and 2014 in late May 2015, in which they proposed \$500 payments every other week. (AE M.) According to Applicant, he made a \$500 payment to the IRS. His plan was to make the \$500 payments until he was able to obtain a loan to address the remaining balance. (AE G.) On July 27, 2015, Applicant paid \$18,905.82 to the IRS to resolve his and his spouse's federal income taxes for 2013 and 2014. Applicant took out a \$20,000 loan to repay the taxes.¹ (AEs G, P.) The evidentiary record does not contain information from the lender about its repayment terms. Applicant had budgeted for \$300 monthly payments on the new loan as of late July 2015. (AE J.)

Applicant's annual salary is \$175,000. (Tr. 22.) Applicant has handled the family's finances since 2011 or 2012. (Tr. 69.) As of May 2015, Applicant was claiming three exemptions for both federal and state tax withholdings. He has an additional \$250 in federal taxes withheld to ensure that he and his spouse would not have a large tax bill due with their tax return. (AE N; Tr. 48, 62.) Applicant and his spouse are paying \$650 per month toward student loans for the elder of their two sons.² Applicant and his spouse's younger son is a college student at the university that employs his spouse, so their expenses for his education are minimal. (Tr. 64-65.) Applicant pays his daughter's auto insurance costs. (Tr. 72.) She covers her other expenses, including her rent. (Tr. 73.)

Applicant's and his spouse's household budget shows income sufficient to meet all their financial obligations. As of July 2015, Applicant reported \$141,000 in net annual income, or an average of \$11,900 a month. He estimated his monthly expenses at \$10,763, which included \$1,000 toward his income taxes, \$350 in potential savings, and \$1,600 in credit card payments, if he pays the minimums. (AE J.) Concerning any future financial overextension on consumer credit, Applicant responded that he was going to do his best to ensure that he and his spouse live within their means. (Tr. 66.)

Company X's chief executive officer and its founder/managing member both endorse Applicant for security clearance eligibility. Initially as a consultant to the company and then employee, Applicant has technical expertise that has earned him the respect of the company's government clients. Applicant had demonstrated integrity, reliability, and trustworthiness on the job. (AEs E, F.)

¹ Applicant had not closed on the loan by May 29, 2015, because the creditor identified in SOR 1.b and 1.c had not filed to discharge the lien on his home, even though he had settled his debts in October 2014. The new loan is secured by his home. (AE G.)

² As of July 2014, Equifax was not showing any student loans on Applicant's credit record. (GE 2.) Applicant testified that he was making payments on three student loans, at least one of which was in his spouse's name. (Tr. 49.) Applicant's son is an auto mechanic and is paid the minimum wage, so he cannot afford to pay his loans without help. (Tr. 50.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant’s eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern about financial considerations is articulated in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The Guideline F concerns are well established. Applicant showed considerable financial irresponsibility in several aspects. He did not file and pay estimated taxes for tax years 2011 and half of 2012, when he was a 1099-C employee of company Y. As a consequence, he and his spouse owed the IRS \$34,327 for tax year 2011 and \$21,750 for tax year 2012 plus penalties and interest. They made some payments toward their 2011 federal tax delinquencies between August 2012 and June 2013, but their installment agreement was subsequently invalidated because of their tax delinquency for tax year 2012. In December 2013, the IRS filed a tax lien of \$35,849 against Applicant and his spouse for unpaid taxes for 2011 and 2012. Additionally, Applicant accrued delinquent credit card debts of \$16,943 and \$12,741 by 2007, and the debts were not resolved until October 2014. Three disqualifying conditions under AG ¶ 19 apply:

- (a) inability or unwillingness to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (e) consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and/or other financial analysis.

Applicant's tax and credit card problems are too recent for mitigation under AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under circumstances that it is unlikely to recur and does not cast doubt on the individual's current, reliability, or good judgment." As of August 2012, Applicant's and his spouse's installment agreement to pay their 2011 tax delinquency was pending with the IRS. On notice of their sizeable tax debt for 2011, Applicant took no steps at that time to adjust his withholding to ensure that sufficient taxes were withheld from his pay for subsequent years. On adjusted gross income of \$169,535 in 2012, \$197,675 in 2013, and \$199,072 in 2014, Applicant and his spouse underpaid their federal income taxes by approximately \$21,750 in 2012, \$7,715 in 2013, and \$9,989 in 2014. They did not have the funds to pay those taxes when they were due. Applicant gave priority to paying current credit card balances over resolving his federal income tax and long overdue credit card debts in SOR 1.b and 1.c.

Applicant has attributed the credit card delinquencies in SOR 1.b and 1.c to unemployment and to having to pay \$1,400 a month for medical insurance when he became a self-employed consultant. AG ¶ 20(b) provides for mitigation when debts are incurred because of unexpected circumstances outside of one's control:

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

Applicant was unemployed for about eight months around 2000. Available credit information shows that Applicant opened the credit card account in SOR 1.b in September 1999. Even if his unemployment caused him to fall behind on the account initially, and he had sizeable medical insurance costs as a consultant for company Y from 2009 to mid-2012, Applicant has not provided a credible showing of an unexpected circumstance that could explain his inattention to the credit card debts in SOR 1.b and 1.c after he became a full-time employee of company X in July 2012. AG ¶ 20(b) requires that Applicant act responsibly to address his debts. He indicated that the creditor wanted lump sums that he could not afford, but Applicant also acknowledged during his OPM interview in June 2013 that he had little knowledge about the debts apart from the fact that the lender filed a lien against his property in October 2007. Furthermore, Applicant exercised questionable financial judgment by continuing to take on new credit card debt for a vacation in February 2011 and for a \$6,000 air conditioning unit in 2014 when his old credit card delinquencies had not been resolved.

Concerning his federal income tax delinquencies, Applicant cited school tuition costs for his son as a possible reason for not having the funds to pay their taxes. Tuition is not a frivolous expense, but Applicant did not present evidence showing the amounts and dates of payment that could implicate AG ¶ 20(b). Applicant and his spouse paid around \$2,000 a month from September 2012 to June 2013 toward his federal tax delinquency for 2011. Around the time that the IRS filed a tax lien against them in December 2013, they paid \$1,400. Applicant and his spouse paid off their income tax debt for 2011 and 2012 in early October 2014 with a lump-sum payment of \$36,668.95, but they borrowed against the equity in their house to do so. Having filed a timely income tax return in 2014 for 2013, which was later rejected by the IRS, Applicant knew that they had underpaid their taxes, and yet he did not give his income taxes sufficient priority. His recent tax issues are due largely to ongoing excessive reliance on consumer credit (see Tr. 52) and to failure to adjust his tax withholdings, both matters within his control.

Applicant is credited with settling the \$29,684 in delinquent credit card debt for \$14,600 and with satisfying the \$35,849 tax lien before the SOR was issued in January 2015. AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control," and AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," are established to a greater or lesser extent because of his debt payments in October 2014. Resolution of the debts minimizes current financial stress, although it does not necessarily mitigate the risk of future financial problems. In that vein, it is noted that Applicant and his spouse were able to satisfy the debts alleged in the SOR because they refinanced their mortgage and home equity loans in September 2014. As of June 2014, they owed principal balances totaling \$239,651 on their three home loans.

They took on \$306,000 in mortgage debt with the refinancing in September 2014. In July 2015, they took on a new loan of \$20,000 to pay off their federal income tax debts for 2013 and 2014.

As of July 2015, Applicant reported \$141,000 in net annual income, or an average of \$11,900 a month. He estimated his monthly expenses at \$10,763, which included \$1,000 toward his income taxes, \$350 in potential savings, and \$1,600 in credit card payments, if he pays the minimum on the balances. (AE J.) Provided neither he nor his spouse stray from their household budget, they should have sufficient funds with some leeway to meet their current obligations. Applicant testified that he will strive to ensure that he lives within his means in the future. In that regard, Applicant's case would have been aided substantially had he obtained financial counseling to avoid issues of overspending on credit that left him unable to pay his federal income tax obligations when they were due, including in 2015. He has no record of recent delinquency on his open consumer credit accounts, but he has yet to demonstrate that he can pay his debts without taking on new debt.

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 his 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.

The financial analysis under Guideline F is incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant has had success in his chosen career. His annual salary of \$175,000 exceeds what one would normally expect for an engineer with a two-year degree and shows his value to his employer. However, he has a record of being unable to pay his federal income taxes on time for the past four years that has not been fully explained.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases, stating:

[A]n 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 his actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations and quotation marks omitted). Applicant has addressed the debts of concern, but he has had to borrow the funds to do so. Applicant has no serious record of delinquency on his current consumer credit accounts. While noting that the Government can re-validate Applicant's financial status at any time through credit reports, investigation, or interrogatories,³ he lacks a record of timely compliance with his income tax obligations, which calls into question his ability and willingness to comply with the obligations of a security clearance.

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.). His failure to give adequate priority to his tax matters raises considerable doubts about his judgment and his willingness to comply with laws and regulations. For the reasons noted above, based on the facts before me and the adjudicative guidelines that I am required to consider, I am unable to conclude that it is clearly consistent with the national interest to grant Applicant security clearance eligibility at this time.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant

³ The DOHA Appeal Board has held that the Government has the right to reconsider the security significance of past conduct or circumstances in light of more recent conduct that has negative security significance. See ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012).

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge