



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



In the matter of: )  
 )  
 --- ) ISCR Case No. 15-03481  
 )  
 Applicant for Security Clearance )

**Appearances**

For Government: Ray T. Blank, Jr., Esquire, Department Counsel  
For Applicant: *Pro se*

05/31/2016

**Decision**

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding financial considerations and personal conduct. Eligibility for a security clearance and access to classified information is granted.

**Statement of the Case**

On May 31, 2013, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application.<sup>1</sup> On August 18, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the *Adjudicative Guidelines for Determining Eligibility For Access to Classified Information* (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective

<sup>1</sup> Item 4 (e-QIP, dated May 31, 2013).

September 1, 2006. The SOR alleged security concerns under Guidelines F (Financial Considerations) and E (Personal Conduct), and detailed reasons why the DOD CAF was unable to make an affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Applicant received the SOR on November 9, 2015. On November 18, 2015, Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing.<sup>2</sup> A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant on January 6, 2016, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Guidelines applicable to his case. Applicant received the FORM on January 27, 2016. A response was due by February 26, 2016. Applicant submitted documentation from the Internal Revenue Service (IRS) in response to the FORM on March 9, 2016. Department Counsel did not object to the documents. The case was assigned to me on May 25, 2016.

### **Findings of Fact**

In his Answer to the SOR, Applicant denied with brief comments the three factual allegations pertaining to financial considerations (¶¶ 1.a. through 1.c.), and failed to address the allegation pertaining to personal conduct. Applicant's brief comments are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 52-year-old employee of a defense contractor. He has been a field service technician with his current employer since March 2012. He was previously a technician with another employer from July 1996 until March 2012.<sup>3</sup> He is a 1982 high school graduate with a 1995 associate's degree in an unspecified discipline.<sup>4</sup> He has never served with the U.S. military.<sup>5</sup> In fact, he never registered with the Selective Service System (SSS) as he had never heard of it or of the requirement to register with it.<sup>6</sup> He has never held a security clearance.<sup>7</sup> Applicant has an unusual marital history. He married his wife in December 1984. In February 1989, because she had applied for

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<sup>2</sup> Item 2 (Applicant's Answer to the SOR, dated November 18, 2015).

<sup>3</sup> Item 4, *supra* note 1, at 10-12.

<sup>4</sup> Item 4, *supra* note 1, at 9-10; Item 7 (Personal Subject Interview, dated July 30, 2013), at 1.

<sup>5</sup> Item 4, *supra* note 1, at 13.

<sup>6</sup> Item 4, *supra* note 1, at 13.

<sup>7</sup> Item 4, *supra* note 1, at 27.

employment where Applicant's mother was employed, and the company had a policy prohibiting the hiring of relatives of employees, they were divorced. In May 1989, after she had been hired, Applicant and his ex-wife were remarried.<sup>8</sup> At some point after January 1995, having grown apart, they again divorced.<sup>9</sup> They have two sons born in 1985 and 1989, respectively.<sup>10</sup>

## **Financial Considerations and Personal Conduct<sup>11</sup>**

It is unclear when Applicant first experienced financial difficulties, but in reviewing his comments to an investigator from the U.S. Office of Personnel Management (OPM), it appears that while Applicant was able to generally maintain his financial obligations in the mid-1990's, he was having difficulties with balancing the family finances, in part because his wife enjoyed shopping and spending money beyond their means. He was unable to save any funds.<sup>12</sup> In more recent times, Applicant has struggled with maintaining a budget, and he has been forgetful and has procrastinated with the filing of his federal income tax returns.<sup>13</sup> Furthermore, with respect to his federal income tax filings, he had not given the issue any priority and has been lazy in resolving it.<sup>14</sup> As a result of a combination of those factors, Applicant failed to timely file his federal income tax returns for the tax years 2009, 2010, 2011, and 2012.<sup>15</sup> A federal income tax lien in the amount of \$245 was filed in April 2009.<sup>16</sup> In July 2013, Applicant indicated he intended to file the tardy income tax returns in August 2013.<sup>17</sup>

The SOR identified two purportedly continuing delinquent accounts, totaling approximately \$2,971. It also alleged that Applicant had failed to "submit" federal income tax returns for the tax years 2009, 2010, 2011, and 2012. The tax lien was not alleged. Those two debts and the income tax allegations, and their respective current status, according to the above-cited credit reports, Applicant's comments to the OPM investigator, in the e-QIP, in his Answer to the SOR, and in Response to the FORM, are described as follows:

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<sup>8</sup> Item 4, *supra* note 1, at 15-16; Item 7, *supra* note 4, at 1-2.

<sup>9</sup> Item 7, *supra* note 4, at 2.

<sup>10</sup> Item 4, *supra* note 1, at 19.

<sup>11</sup> General source information pertaining to the financial issues discussed below can be found in the following exhibits: Item 5 (Combined Experian, TransUnion, and Equifax Credit Report, dated June 18, 2013); Item 6 (Equifax Credit Report, dated March 28, 2015); Item 7, *supra* note 4; Item 4, *supra* note 1; Item 2, *supra* note 2. More recent information can be found in the exhibits furnished and individually identified.

<sup>12</sup> Item 7, *supra* note 4, at 2.

<sup>13</sup> Item 7, *supra* note 4, at 5.

<sup>14</sup> Item 7, *supra* note 4, at 4.

<sup>15</sup> Item 7, *supra* note 4, at 4.

<sup>16</sup> Item 5, *supra* note 11, at 5; Item 7, *supra* note 4, at 4.

<sup>17</sup> Item 7, *supra* note 4, at 4.

SOR ¶ 1.a. – This is a bank credit card account with an unpaid balance of \$2,712.99 that was transferred or sold to a collection entity which filed a lawsuit against Applicant in April 2013. Applicant paid the entire balance in June 2013, over two years before the SOR was issued, and the available Government evidence clearly reflects that the account was resolved at that time.<sup>18</sup>

SOR ¶ 1.b. – This is a medical account from an unidentified medical provider with a remaining balance of \$223 about which Applicant was initially unaware, apparently because the creditor had the wrong mailing address for Applicant. He was able to contact the collection agent to validate the account. He contends he has paid the balance, but the documentation he submitted is merely an extract of a credit report with some notes written upon it,<sup>19</sup> and there is no indication (by receipt or cancelled check) that the balance has, in fact, been paid.

SOR ¶ 1.c. – This refers to the failure to “submit” the federal income tax “filings” for the tax years 2009 through 2012. In his e-QIP, Applicant denied filing his federal income tax returns for the tax years 2010 and 2011.<sup>20</sup> He explained that the IRS usually just sends him a letter if he owes additional taxes.<sup>21</sup> During his OPM interview, he admitted he had not filed his federal income tax returns for 2009 and 2012 as well.<sup>22</sup> In September 2015, the IRS issued three notices of intent to seize Applicant’s state tax refunds or other property to be applied to his unpaid income taxes, penalty, and interest for the tax years 2010 (\$669.42), 2011 (\$765.04), and 2012 (\$1,342.55).<sup>23</sup> In October 2015, his anticipated refund for the tax year 2014 was applied to his remaining 2010 and 2011 balances.<sup>24</sup> Applicant finally filed his federal income tax returns for the tax years in issue: a Form 1040EZ for 2009 was filed on or before February 21, 2014;<sup>25</sup> a Form 1040EZ for 2010 was filed on or before February 24, 2014;<sup>26</sup> a Form 1040EZ for 2011 was filed on or before February 20, 2014;<sup>27</sup> and a Form 1040 for 2012 was filed on or before August 16, 2015.<sup>28</sup> Because of a combination of diverted refunds by the IRS and actual payments by Applicant, the estimated remaining tax balances for the tax years were as follows: 2009 (zero); 2010 (\$338.80); 2011 (zero); and 2012 (\$1,406.04).

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<sup>18</sup> Item 4, *supra* note 1, at 29-30; Item 6, *supra* note 11, at 3; Item 7, *supra* note 4, at 4. See also Final Statement, dated November 18, 2015, attached to Applicant’s Answer to the SOR.

<sup>19</sup> Credit Report Extract, dated November 19, 2015, attached to Applicant’s Answer to the SOR.

<sup>20</sup> Item 4, *supra* note 1, at 27-28.

<sup>21</sup> Item 4, *supra* note 1, at 28.

<sup>22</sup> Item 7, *supra* note 4, at 4.

<sup>23</sup> IRS Notices, dated September 28, 2015, attached to Applicant’s Answer to the SOR.

<sup>24</sup> IRS Notice, dated October 12, 2015, attached to Applicant’s Answer to the SOR.

<sup>25</sup> Account Transcript, dated February 25, 2016, attached to Applicant’s Response to the FORM.

<sup>26</sup> Account Transcript, dated February 25, 2016, attached to Applicant’s Response to the FORM.

<sup>27</sup> Account Transcript, dated February 25, 2016, attached to Applicant’s Response to the FORM.

<sup>28</sup> Account Transcript, dated February 25, 2016, attached to Applicant’s Response to the FORM.

Applicant failed to furnish a personal financial statement setting forth his net monthly income; his monthly household expenses; and his monthly debt payments. In the absence of such information, it is impossible to determine if he has any monthly remainder available for savings or spending. Also, it is difficult to determine if Applicant's finances are under control or if he is still experiencing financial difficulties. Nevertheless, a review of the two credit reports in evidence does not reveal any other delinquent debts. It is unclear if he still has a relatively small remaining income tax balance for the tax years 2010 and 2012. Nevertheless, with the 2014 filing of the tardy federal income tax returns, Applicant's positive resolution of one or both of the other two debts, as well as his relatively recent embrace of the responsibility of timely filing his annual federal income tax returns, it appears that Applicant's financial problems are now under control. There is no evidence that Applicant ever sought the services of a financial advisor, or that Applicant ever received financial counseling.<sup>29</sup>

### **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."<sup>30</sup> 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. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so."<sup>31</sup>

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 meaningful decision.

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<sup>29</sup> Item 7, *supra* note 4, at 5.

<sup>30</sup> *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

<sup>31</sup> Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

In the decision-making process, facts must be established by “substantial evidence.”<sup>32</sup> The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government.<sup>33</sup>

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. 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 as to potential, rather than actual, risk of compromise of classified information. Furthermore, “security clearance determinations should err, if they must, on the side of denials.”<sup>34</sup>

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.”<sup>35</sup> Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

## **Analysis**

### **Guideline F, Financial Considerations**

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

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<sup>32</sup> “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994).

<sup>33</sup> See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

<sup>34</sup> *Egan*, 484 U.S. at 531.

<sup>35</sup> See Exec. Or. 10865 § 7.

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 notes several conditions that could raise security concerns. Under AG ¶ 19(a), an "inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly, under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns. In addition, "failure to file annual Federal, state, or local income tax returns as required or the fraudulent filing of the same" is potentially disqualifying under AG ¶ 19(g). Applicant has had a long-standing problem with his finances which started as early as 2009, when he stopped the timely filing of his federal income tax returns over a multiple-year period. His procrastination, laziness, forgetfulness, and a difficulty in maintaining a budget resulted in both the late income tax return filings and his failure to timely pay two bills that became delinquent. AG ¶¶ 19(a), 19(c), and 19(g) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where "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." Also, under AG ¶ 20(b), financial security concerns may be mitigated where "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." Evidence that "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" is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."<sup>36</sup>

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<sup>36</sup> The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

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

AG ¶¶ 20(a) and 20(b) do not apply. AG ¶¶ 20(c) and 20(d) apply. The nature, frequency, and recency of Applicant's multi-year period of income tax difficulties since the tax year 2009 make it difficult to conclude that it occurred "so long ago" or "was so infrequent." Nevertheless, Applicant finally severed his psychological restraints (procrastination, laziness, forgetfulness, and a difficulty in maintaining a budget), and addressed one of his delinquent debts in 2013, and his tax issues in 2014, both well before the SOR was issued. Applicant attributed those psychological issues to his failure to timely file his income tax returns, but those restraints were not beyond his control. However, the blemishes in Applicant's credit reports have been addressed by Applicant when he belatedly initiated good-faith efforts to resolve his delinquent accounts and his unfiled federal income tax returns. While Applicant may not have received financial counseling, there are substantial indications that Applicant's financial problems have been resolved and are under control. Applicant finally acted responsibly by addressing his delinquent accounts and unfiled federal income tax returns.<sup>37</sup> Applicant's actions under the circumstances confronting him no longer cast doubt on his current reliability, trustworthiness, and good judgment.<sup>38</sup>

### **Guideline E, Personal Conduct**

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 16(c), it is potentially disqualifying if there is

credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information.

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<sup>37</sup> "Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

<sup>38</sup> See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

Under AG ¶ 16(d), it is potentially disqualifying if there is

credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of: . . . (3) a pattern of dishonesty or rule violations. . . .

Under AG ¶ 16(e), it is also potentially disqualifying if there is

personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as . . . engaging in activities which, if known, may affect the person's personal, professional, or community standing. . . .

Applicant failed to timely file his federal income tax returns for 2009, 2010, 2011, and 2012. Department Counsel has argued the applicability of all three of the above conditions without specifying those factors that support the conditions. The failure to file income tax returns is a recognized potentially disqualifying condition explicitly covered under Guideline F. Applicant's federal income tax return issues involve questionable judgment and an unwillingness to comply with rules and regulations, or even a pattern of rule violations. However, there is no evidence of a lack of candor or a pattern of dishonesty. Applicant made no effort to conceal his income tax return issues. AG ¶¶ 16(c) and 16(e) have been established, but AG ¶ 16(d) has not been established.

The guideline also includes examples of conditions that could mitigate security concerns arising from personal conduct. AG ¶ 17(d) may apply if

the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Also, AG ¶ 17(e) may apply if "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress."

AG ¶¶ 17(d) and 17(e) apply. For the reasons fully set forth in my analysis pertaining to financial considerations, Applicant has embraced the paradigm of timely income tax return filing and vows not to make that same mistake in the future. With his new-found understanding of his legal responsibilities, and his tardy 2014 filing of his federal income tax returns for 2009, 2010, 2011, and 2012, Applicant has taken positive steps to eliminate or avoid similar circumstances.

## 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. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.<sup>39</sup>

There is some evidence against mitigating Applicant's conduct. Referring to procrastination, laziness, forgetfulness, and a difficulty in maintaining a budget, Applicant failed to timely file federal income tax returns for the tax years 2009, 2010, 2011, and 2012. He also had two accounts that became delinquent and placed for collection. He never registered with the SSS claiming he had never heard of it or of the requirement to register with it. He and his wife avoided an employer policy against relatives being hired when they divorced simply to skirt around the prohibition before remarrying after she was hired for her position.

The mitigating evidence is more substantial. Although Applicant failed to timely file federal income tax returns for the tax years 2009, 2010, 2011, and 2012, he finally filed three of those tardy returns in February 2014 – 18 months before the SOR was issued, and the remaining return was filed on an unspecific date before the SOR was issued. He declared that he has resolved his former procrastination, laziness, and forgetfulness issues by adopting the paradigm of timely filing future federal income tax returns. As far as the delinquent credit card account, he paid that account off in June 2013, over two years before the SOR was issued, a fact known to the drafter of the SOR before the SOR was issued. The small delinquent medical account was apparently resolved by Applicant, but he failed to submit documentation to support his contention that the account had been paid off. While there may still be a relatively small income tax balance remaining, Applicant's most recent credit report reveals no other delinquent debts, and his financial problems appear to be under control. Applicant's actions under

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<sup>39</sup> See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

the circumstances no longer cast doubt on his current reliability, trustworthiness, and good judgment.

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:<sup>40</sup>

In evaluating Guideline F cases, the Board has previously noted that the concept of “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 [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has “. . . established a plan to resolve his [or her] 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 [or her] 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.

Applicant has demonstrated a “meaningful track record” of voluntary debt reduction and elimination efforts, in resolving his two delinquent debts and addressing his tardy federal income tax issues well before the SOR was issued. Nevertheless, this decision should serve as a warning that Applicant’s failure to continue to timely file his federal income tax returns in the future will adversely affect his future eligibility for a security clearance.<sup>41</sup>

Overall, the evidence leaves me without questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude

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<sup>40</sup> ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

<sup>41</sup> While this decision should serve as a warning to Applicant as security officials may continue to monitor his finances and the timely filing of federal income tax returns, this decision, including the warning, should not be interpreted as a conditional eligibility to hold a security clearance. The Government can re-validate Applicant’s financial status at any time through credit reports, investigation, and interrogatories. Approval of a security clearance now does not bar the Government from subsequently revoking it, if warranted. “The Government has the right to reconsider the security significance of past conduct or circumstances in light of more recent conduct having negative security significance.” Nevertheless, the Defense Office of Hearings and Appeals (DOHA) has no authority to attach limiting conditions, such as an interim, conditional, or probationary status, to an applicant’s security clearance. See, e.g., ISCR Case No. 10-06943 at 4 (App. Bd. Feb. 17, 2012) (citing ISCR Case No. 10-03646 at 2 (App. Bd. Dec. 28, 2011)). See also ISCR Case No. 06-26686 at 2 (App. Bd. Mar. 21, 2008); ISCR Case No. 04-03907 at 2 (App. Bd. Sep. 18, 2006); ISCR Case No. 04-04302 at 5 (App. Bd. June 30, 2005); ISCR Case No. 03-17410 at 4 (App. Bd. Apr. 12, 2005); ISCR Case No. 99-0109 at 2 (App. Bd. Mar. 1, 2000).

Applicant has mitigated the security concerns arising from his financial considerations and personal conduct concerns. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

### **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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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ROBERT ROBINSON GALES  
Administrative Judge