



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



In the matter of: )  
 )  
----- ) ISCR Case No. 09-03784  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

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

April 26, 2010

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant's statement of reasons (SOR) lists 14 debts totaling \$41,191. He did not make any payments on any of his SOR debts. Eleven SOR debts totaling \$28,023 are established and not sufficiently resolved to be mitigated. He failed to make sufficient effort to resolve his delinquent SOR debts. Financial considerations concerns are not mitigated. Personal conduct concerns are mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On July 31, 2008, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SF 86) (GE 1). On December 4, 2009, the Defense Office of Hearings and Appeals (DOHA) issued an SOR to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified; and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005.

The SOR alleged security concerns under Guidelines F (financial considerations) and E (personal conduct) (Hearing Exhibit (HE) 2). The SOR detailed reasons why DOHA could not make the preliminary 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 Applicant's clearance should be granted, continued, denied, or revoked (HE 2).

On January 13, 2010, Applicant responded to the SOR and requested a hearing (HE 3). On February 2, 2010, Department Counsel indicated he was ready to proceed on his case. On March 12, 2009, DOHA assigned Applicant's case to me. On March 19, 2009, DOHA issued a hearing notice (HE 1). On April 7, 2010, Applicant's hearing was held. At the hearing, Department Counsel offered six exhibits (GE 1-6) (Tr. 15-16), and Applicant offered one exhibit (Tr. 18; AE A). There were no objections, and I admitted GE 1-6 (Tr. 16) and AE A (Tr. 18). Additionally, I admitted the hearing notice, SOR, response to the SOR, and a chart showing the status of Applicant's SOR debts as hearing exhibits (Tr. 16-18; HE 1-4). On April 14, 2010, I received the transcript.

### **Findings of Fact<sup>1</sup>**

Applicant's SOR response admitted that he owed the creditors in SOR ¶¶ 1.a to 1.n (HE 3). He denied the allegations in SOR ¶¶ 2.a and 2.b that he intentionally provided false information on his July 31, 2008, SF 86. His admissions are accepted as findings of fact.

Applicant is a 33-year-old employee of a government contractor (Tr. 20; SF 86). He was born in South Korea and came to the United States in 1990 (Tr. 20; SF 86). He graduated from high school in 1995 (SF 86). He completed about two years of college, where he majored in computer science (Tr. 6, 20). He became a U.S. citizen in 2003 (SF 86). Applicant has held two jobs in the security area for about two years (Tr. 23-24; SF 86). He works about 70-80 hours per week (Tr. 23-24; SF 86). He makes \$11.50 an hour on one job, and \$15.50 an hour on the other job (Tr. 26). Applicant has never served in the military (Tr. 23; SF 86).

Applicant's spouse was born in South Korea (SF 86). She entered the United States in January 2002. She is a registered alien (SF 86). She has applied for permanent residence in the United States (Tr. 22). Applicant married his spouse in January 2005 (Tr. 21; SF 86). She is not employed outside their home (Tr. 22). Their child was born in 2005 (Tr. 21; SF 86).

Applicant did not disclose any unpaid liens, garnishments, or civil court actions (SF 86).<sup>2</sup> He did not disclose any illegal drug use, or alcohol-related offenses on his July 31, 2008, security clearance application.

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<sup>1</sup>Some details have been excluded in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

## Financial Considerations

The SOR lists 14 debts totaling \$41,191 as follows: 1.a (medical debt—\$747) (Tr. 26-28); 1.b (medical debt—\$137) (Tr. 27-28); 1.c (telecommunications debt—\$153) (Tr. 29); 1.d (credit card—\$581) (Tr. 29); 1.e (credit card—\$2,761) (Tr. 30); 1.f (credit card—\$625) (Tr. 30-31); 1.g (credit card—\$485) (Tr. 31); 1.h (collection company—\$172) (Tr. 31); 1.i (collection account—\$2,760) (Tr. 32); 1.j (vehicle loan—\$19,000) (Tr. 32); 1.k (telecommunications debt—\$157) (Tr. 33-35); 1.l (telecommunications debt—\$250); 1.m (telecommunications debt—\$70) (Tr. 35); and 1.n (vehicle loan—\$13,293) (Tr. 36).

Applicant thought the debts in SOR ¶¶ 1.e (\$2,761) and 1.i (\$2,760) were the same account (Tr. 32). The name of the creditor is the same, and the amounts are very close. I conclude the debts are a duplication of each other.

The vehicle loan in SOR ¶ 1.j (\$19,000) involved a repossessed vehicle (Tr. 32). Applicant bought a vehicle and was only able to make payments for eight months (GE 2). The vehicle was repossessed in November 2006 (GE 2). He received a letter from the creditor indicating the vehicle was auctioned, and he thought the balance was about \$9,000 (GE 2).

Applicant called the creditor for the debts in SOR ¶¶ 1.k (\$157) and 1.l (\$250), and the creditor said they could not locate the debts (Tr. 34). He has never seen any bills from the creditor (Tr. 34-35).

The vehicle loan in SOR ¶ 1.n (\$13,293) involved a vehicle that was wrecked in November 2004 (Tr. 36-37). Applicant's vehicle was not insured (Tr. 37). In January 2007, Applicant's claim was settled and Applicant received \$12,000 (Tr. 38). Applicant did not use the money to pay his car loan, and instead used it to purchase a new vehicle (Tr. 38). Applicant recognized that he made the wrong decision with the funds he received (Tr. 39-40).

Applicant has only one current credit card (Tr. 43-44). The balance on his credit card is \$750 (Tr. 44). It is the only account where he is making monthly payments (Tr. 44). He has about \$500 in his checking account (Tr. 45). He does not have a retirement account or a savings account (Tr. 45). Applicant has a 2000 Toyota, which is paid off (Tr. 46).

An Office of Personnel Management (OPM) investigator interviewed Applicant on September 4, 2008 (GE 5). Applicant discussed his two major debts (SOR ¶¶ 1.j (\$19,000) and 1.n (\$13,293), as well as several smaller debts. Applicant said he was considering a debt consolidation plan to resolve his debts (GE 5).

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<sup>2</sup>Unless stated otherwise, the facts in this paragraph and the next paragraph are from Applicant's July 31, 2008 SF 86 (GE 1).

Applicant's monthly gross salary is \$4,080; his net monthly salary is \$3,480; his monthly expenses are \$3,125; and his net remainder is \$355 (Tr. 40-45).<sup>3</sup> He has not had financial counseling (Tr. 47). He did not pay any of his SOR debts (Tr. 47).

Applicant enlisted in the Army (Tr. 47; AE A). He begins basic training on June 29, 2010 (Tr. 48). He chose a military occupational specialty (MOS) of power generator equipment repair (Tr. 69). His MOS options were limited because of his security clearance problems (Tr. 69). He joined the Army because he wanted to improve his life (Tr. 48). He was willing to serve in Iraq or Afghanistan (Tr. 57).

### **Failure to disclose delinquent debts and vehicle repossession on his security clearance application**

On July 31, 2008, Applicant completed his security clearance application and indicated in section 27 that he did not have any property repossessed for any reason (SOR ¶ 2.a; Tr. 26, 54; GE 1). In section 28, he denied that he had debts currently over 90 days delinquent, or debts over 180 days delinquent in the last seven years (SOR ¶ 2.b; Tr. 26, 52; GE 1).

In regard to Applicant's failure to disclose his delinquent debts, Applicant explained that he was well aware that he had not paid some of his debt for more than 90 days. He was simply careless when he completed his SF 86 (Tr. 52, 56). Most of the answers on his SF 86 were "no," and he just continued to answer "no" to all of the questions (Tr. 52-53). He read quickly, saw the word "delinquent", thought that "delinquent" did not apply to him, and checked "no" (Tr. 58-59). He never used the word, "delinquent" in his life (Tr. 60).<sup>4</sup> Also he was working so many hours, he was "burned out" and "like a walking zombie" from working two jobs (Tr. 53). He was not able to think straight (Tr. 53). He sincerely regretted his carelessness (Tr. 53, 56).

For Applicant's failure to disclose that he had a vehicle repossessed, he explained that he thought the question was asking about foreclosures, and that repossessions referred to a creditor taking a house (Tr. 54-55).

Applicant denied that he attempted to conceal the information about his financial problems because he was worried about the impact on his employment or security clearance (Tr. 56). At the time he completed the SF 86, he did not believe financial matters were that important for deciding whether a security clearance should be approved (Tr. 56).

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<sup>3</sup>Applicant told the OPM investigator that after deducting expenses from his net income he had a remainder of \$240 (GE 5). On June 25, 2009, he indicated in a personal financial statement that he had a remainder of \$202 after deducting expenses from his net income (GE 2).

<sup>4</sup>It is apparent from his statement at his hearing, and his letter responding to DOHA interrogatories that Applicant's vocabulary in English is limited (GE 2). I found his statement about not understanding the terms delinquencies in relation to debts and repossessions in relation to property on his SF 86 to be credible.

## Policies

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

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or 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. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), § 3.1. 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 not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the

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

### **Analysis**

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, I conclude the relevant security concerns are under Guidelines F (financial considerations) and E (personal conduct).

### **Financial Considerations**

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

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

AG ¶ 19 provides two Financial Considerations Disqualifying Conditions that could raise a security concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts;” and “(c) a history of not meeting financial obligations.” In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

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

(internal citation omitted). Applicant’s history of delinquent debt is documented in his credit reports, his SOR response, and his statement at his hearing.

Applicant’s SOR lists 14 debts totaling \$41,191. The debts in SOR ¶¶ 1.k and 1.l, totaling about \$400 are not established. Applicant called the creditor and the creditor could not locate the accounts. The debts in SOR ¶¶ 1.e (\$2,761) and 1.i (\$2,760) are a duplication of each other. The debt in SOR ¶ 1.j is overstated because it is \$9,000 rather than \$19,000. The debt in SOR ¶ 1.j receives a credit of \$10,000 for the auction of Applicant’s repossessed vehicle. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five Financial Considerations Mitigating Conditions under AG ¶ 20 are potentially applicable:

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

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

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

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

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

Applicant's conduct does not warrant full application of any mitigating conditions because he did not act more aggressively and responsibly to resolve his delinquent debts. His delinquent debts are "a continuing course of conduct" under the Appeal Board's jurisprudence. See ISCR Case No. 07-11814 at 3 (App. Bd. Aug. 29, 2008) (citing ISCR Case No. 01-03695 (App. Bd. Oct. 16, 2002)). Applicant does not receive credit under AG ¶ 20(a) because he did not establish that his financial problems "occurred under such circumstances that [they are] unlikely to recur." There is some residual doubt about whether Applicant is fully committed to resolving his delinquent SOR debts and is making adequate steps to do so.

AG ¶ 20(b) has limited applicability. Applicant's financial situation was damaged by insufficient income and underemployment. His lack of income is not unexpected. Moreover, there is insufficient evidence about these circumstances to show that he acted responsibly under the circumstances. There is insufficient evidence he maintained contact with his creditors on several of his SOR debts.<sup>5</sup> Applicant was aware of his

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<sup>5</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.

delinquent debts when he completed his security clearance application on July 31, 2008. He became aware that his delinquent debts were a security concern during his OPM interview on September 4, 2008, and even more importantly when he responded to DOHA interrogatories on June 26, 2009. His documented actions were insufficient to establish he acted responsibly under the circumstances.

AG ¶ 20(c) does not apply. He did not receive financial counseling. Applicant did not provide a plan to resolve his delinquent debts. His personal financial statement or budget indicated he had \$200-\$300 available to begin a payment plan. Applicant understands what he must do to establish his financial responsibility. Applicant cannot receive full credit under AG ¶ 20(c) because he has not paid, established payment plans (by making payments), adequately documented disputes of debts, or otherwise resolved any of his SOR debts (except for the debts in SOR ¶¶ 1.i (duplication), 1.k (not established), and 1.l (not established)). There are some initial, positive “indications that the problem is being resolved or is under control.” He has admitted responsibility for 11 SOR debts, and deducting \$10,000 from SOR ¶ 1.j results in a total of \$28,023 in delinquent SOR debt. He also established some mitigation under AG ¶ 20(d) by showing some good faith<sup>6</sup> in the resolution of his SOR debts by admitting responsibility for 11 SOR debts, and promising to pay them. AG ¶ 20(e) is not applicable because Applicant did not provide documentation showing he disputed any of his SOR debts.

In sum, Applicant should have been more diligent and made greater efforts sooner to resolve his delinquent SOR debts. He has had steady employment for the last 18 months. He did not provide proof of any payments to his SOR creditors. He has not provided documentation showing sufficient progress on his SOR debts. His documented steps are simply inadequate to fully mitigate financial considerations security concerns.

## **Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to personal conduct:

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

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<sup>6</sup>The Appeal Board has previously explained what constitutes a “good faith” effort to repay overdue creditors or otherwise resolve debts:

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

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

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.

AG ¶ 16 describes two conditions that could raise a security concern and may be disqualifying with respect to the alleged falsifications of documents used to process the adjudication of Applicant's security clearance in this case:

- (a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and
- (b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

On July 31, 2008, Applicant completed his security clearance application. He indicated he did not have any debts currently delinquent over 90 days, debts delinquent over 180 days in the last seven years, or property repossessed by creditors. This information was false. Applicant knew he had creditors, who had not received payments in over 90 days. He knew that a creditor recovered one of his cars, and sold it at auction at the time he completed his SF 86. AG ¶¶ 16(a) and 16(b) apply.

AG ¶ 17 provides seven conditions that could mitigate security concerns in this case:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) 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;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

AG ¶ 17(f) applies.<sup>7</sup> Applicant quickly completed his SF 86 and answered “no” to questions about delinquent debts and repossessed property without carefully considering whether he should answer “yes.” He did not understand the term “delinquent” or “repossession.” His difficulty with English vocabulary was evident during his hearing and in GE 2. He had been working two jobs, 70-80 hours per week for months. He was exhausted from overwork. He was careless. His falsification of his SF 86 was not deliberate or with intent to deceive. He disclosed his financial problems in detail to an OPM investigator on September 8, 2008. The allegation that he deliberately falsified his SF 86 is not substantiated.

### **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

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<sup>7</sup>The Appeal Board has cogently explained the process for analyzing falsification cases, stating:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant's intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E and the burden of persuasion had shifted to the applicant to present evidence to explain the omission.

ISCR Case No. 03-10380 at 5 (App. Bd. Jan. 6, 2006) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).

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 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. AG ¶ 2(c). I have incorporated my comments under Guidelines F and E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Although the rationale for reinstating Applicant's clearance is insufficient to support a security clearance at this time, there are several factors tending to support approval of his clearance. Applicant is 33 years old. He is sufficiently mature to understand and comply with his security responsibilities. He deserves substantial credit for volunteering to support the Department of Defense as an employee of a defense contractor. He recently enlisted in the Army and will start basic training on June 29, 2010. There is no evidence that he has ever violated security rules. There is every indication that he is loyal to the United States, the Department of Defense, and his employer. There is no evidence that he abuses alcohol or uses illegal drugs. His under-employment contributed to his financial woes. He admitted responsibility for 11 SOR debts totaling \$28,023. These factors show some responsibility, rehabilitation, and mitigation.

The whole-person factors against reinstatement of Applicant's clearance are more substantial at this time. Failure to pay or resolve his just debts is not prudent or responsible. Applicant has a history of financial problems. He has had financial problems despite being employed for 18 months. His personal financial statement showed he had \$200 to \$300 remainder to address his SOR debts; however, there was no evidence of a single payment to his SOR creditors. When an OPM investigator interviewed him on September 4, 2008, and then when he responded to DOHA interrogatories on June 26, 2009, it should have been evident to him that delinquent debts were a security issue. The issue of financial considerations was further emphasized when he received the SOR, yet he did not make any payments to his creditors. He had ample notice of his delinquent SOR debts, and sufficient opportunity to make greater progress in the resolution of his SOR debts. He did not pay, start payments, document and justify any disputes, or otherwise resolve any SOR debts. He did not prove he lacked sufficient income to make greater progress resolving his debts. Applicant has not proven that he has an established payment plan on any SOR debts. His promises to pay some of the SOR debts are insufficient to mitigate these debts because there is insufficient evidence to explain why he has not done more to address his SOR debts after becoming aware that they raised a security concern.

I give Appellant substantial credit for admitting 11 of his delinquent debts. Moreover, he admitted the largest debts and denied two small debts for \$157 and \$250. He also asserted one debt was a duplication of another debt (SOR ¶¶ 1.e and 1.i). I am satisfied that he would have admitted these debts, if he had more assurance from the creditors of his responsibility for them. Accordingly, I find "For Applicant" on the debts in

SOR ¶¶ 1.i (\$2,760), 1.k (\$157), and 1.l (\$250). I have also credited him in SOR ¶ 1.j with \$10,000 received for auctioning his repossessed vehicle; however, this debt is not mitigated because he still owes \$9,000 and has no payment plan to resolve this debt.

After weighing the disqualifying and mitigating conditions, and all the facts and circumstances, in the context of the whole person, I conclude Applicant has mitigated the personal conduct security concerns; however, he has not mitigated financial considerations concerns. I take this position based on the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), my careful consideration of the whole person factors and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under the Guidelines. Applicant has not fully mitigated or overcome the Government's case. For the reasons stated, I conclude he is not eligible for access to classified information.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a to 1.h:	Against Applicant
Subparagraph 1.i:	For Applicant (duplicates 1.e)
Subparagraph 1.j:	Against Applicant
Subparagraphs 1.k and 1.l:	For Applicant
Subparagraphs 1.m and 1.n:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant

### **Conclusion**

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

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MARK HARVEY  
Administrative Judge