



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



In the matter of: )  
 )  
----- ) ISCR Case No. 14-06669  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: David Hayes, Esq., Department Counsel  
For Applicant: *Pro se*

11/03/2015

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant’s statement of reasons (SOR) alleges 12 delinquent, collection, or charged-off accounts and two judgments totaling \$27,228. He has not made any payments to SOR creditors since December 2012. Four debts are mitigated because he disputed two debts, and two debts are duplications. He failed to provide sufficient documentation of his progress in resolving his financial problems. Financial considerations concerns are not mitigated. Applicant submitted his May 24, 2012 SF 86 Electronic Questionnaires for Investigations Processing (e-QIP) version of a security clearance application (SF 86) knowing that it did not include accurate information about his financial problems. Personal conduct concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 24, 2012, Applicant submitted an SF 86. (GE 1) On June 15, 2015, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued an SOR to Applicant, under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; and the adjudicative guidelines (AG), which became effective on September 1, 2006.

The SOR alleged security concerns under Guidelines F (financial considerations) and E (personal conduct). (HE 2) The SOR detailed reasons why the DOD CAF was unable to find that it is clearly consistent with the national interest to grant Applicant access to classified information and recommended referral to an administrative judge to determine whether Applicant's clearance should be granted or denied. (HE 2)

On July 16, 2015, Applicant responded to the SOR and requested a hearing. (HE 3) On August 20, 2015, Department Counsel was prepared to proceed. On September 14, 2015, Applicant's case was assigned to me. On September 18, 2015, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing setting the hearing for October 1, 2015. Applicant waived his right to 15 days of notice of the date, time, and location of his hearing. (Transcript (Tr.) 14-15) Department Counsel offered six exhibits into evidence, and Application offered two exhibits into evidence. (Tr. 18-21, 66-69, Government Exhibit (GE) 1-6; Applicant's Exhibit (AE) A; AE B) There were no objections and all exhibits were admitted into evidence. (Tr. 18-21, 69; GE 1-6; AE A; AE B) On October 9, 2015, DOHA received the transcript of the hearing.

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

In Applicant's SOR response, he admitted SOR debts ¶¶ 1.a through 1.h and 1.j through 1.l.<sup>2</sup> He said the debts in SOR ¶¶ 1.c and 1.d were duplications of each other. He denied the other SOR allegations, and he provided extenuating and mitigating information as part of his SOR response. Applicant's admissions are accepted as findings of fact.

Applicant is a 61-year-old financial-management analyst. (Tr. 6) He served in the Ivory Coast military for two years from 1973 to 1975. (Tr. 8; GE 1) In 1987, he graduated from high school. (Tr. 6) In 1983, he received a bachelor's degree, and in 1987, he received a law degree in a foreign country. (Tr. 7) In 1994, he married, and his first spouse passed away. (Tr. 8)<sup>3</sup> In 2008, he married, and in 2011, he divorced. (Tr. 8; GE 1) He does not have any children. (Tr. 9) He has never served in the U.S. military. (GE 1) There is no evidence of security violations, abuse of alcohol, or use of illegal drugs. (GE 1; GE 6)

### **Financial Considerations**

In the previous ten years, Applicant listed one period of unemployment on his SF 86, and that was from October 2008 to October 2009. (Tr. 30; GE 1) From October 2009 to May 2012, Applicant was employed by a federal contractor as a financial

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<sup>1</sup>Some details have not been included in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

<sup>2</sup>The source for the information in this paragraph is Applicant's SOR response. (HE 3)

<sup>3</sup>Applicant's May 24, 2012 SF 86 Electronic Questionnaires for Investigations Processing (e-QIP) version of a security clearance application (SF 86) did not mention his marriage in 1992. (GE 1) He was not asked and did not provide the year his spouse passed away.

analyst. (Tr. 60) He said he was actually only employed part-time during this period, and he began to have financial problems in 2009. (Tr. 29-31, 60) He used credit cards to pay his day-to-day living expenses. (Tr. 32) In December 2012, Applicant paid a company \$99 to dispute negative entries on his credit reports. (Tr. 26-27, 35; AE A) He did not continue the payments because of lack of funds. (Tr. 27, 35) He was employed from May 2010 until March 2013. (Tr. 32, 37)

Applicant has been employed in retail since September 2014, and he has been earning about \$600 or \$700 monthly for take-home pay. (Tr. 38, 40) He has received offers of employment for about \$70,000 in financial management, provided he can obtain a security clearance. (Tr. 39) His 2004 Mercedes is paid off. (Tr. 40) He pays \$138 monthly to store his furniture. (Tr. 41) Applicant only has one active credit card; and he pays \$25 monthly on this credit card, which has a balance of \$400. (Tr. 41-42, 59) He did not provide additional details about his expenses.

Applicant's history of delinquent debt is documented in his Office of Personnel Management (OPM) Personal Subject Interview (PSI), credit reports, SOR response, and hearing record. His SOR alleges 12 delinquent, collection, or charged-off accounts and two judgments totaling \$27,228. Applicant believes the accounts in SOR ¶ 1.c (\$1,276) and ¶ 1.d (\$1,216) are duplications of each other. (Tr. 44; SOR response) The debt in SOR ¶ 1.k (\$567) is being collected by the creditor in SOR ¶ 1.g (\$567). (Tr. 45) He disputed his responsibility for the telecommunications debts in SOR ¶ 1.i (\$70) and ¶ 1.m (\$145), and he informed the creditors that he was not responsible for these debts. (Tr. 46-47) He admitted responsibility for the other SOR debts. (SOR response)

Applicant said he started a payment plan with the bank creditors in SOR ¶ 1.a (\$7,130) and in SOR ¶ 1.b (\$5,849); however, they "did not work out" because he is under employed or unemployed and lacked the income to make payments. (Tr. 57-58) The "payment plans" were discussions over the telephone, and they were not specific about how much he would pay or when payments would start. (Tr. 63) On August 30, 2012, an OPM investigator interviewed Applicant about his debts. (GE 6) Applicant said he would contact his creditors and work out a payment plan with his creditors. (GE 6)

In sum, Applicant did not provide any evidence of payments to any SOR creditors after December 2012. Applicant did not describe any financial counseling. He did not provide a budget. He did not provide income information, such as federal income tax returns, showing his income for the last three years.

## **Personal Conduct**

Section 26 of Applicant's May 24, 2012 SF 86 asked whether in the last seven years any of the following events occurred: he defaulted on any loans; he had any bills turned over to a collection agency; he had any accounts charged off; he had been over 120 days delinquent on any debts; and he is currently over 120 days delinquent on any debts. (GE 1; SOR ¶ 2.a) Applicant answered no to all of these questions. (GE 1) Applicant said at first he listed his debts on his SF 86, and then due to a malfunction, all

the answers were “no.” (Tr. 53-55) Applicant explained his failure to disclose his delinquent debts as follows:

When I was filling out the security clearance questionnaire, I had all day to fill out the question until the night, until these – when I got a financial part, I have a problem. So, when I respond [to] the question, okay, a repeat question. I just don’t know, and when I see the printout, all the question that was no, no, no, that is not – not my intention. (Tr. 47, 51-52)

He admitted that he knew his answers were wrong. (Tr. 55) It was about 9:00 p.m., and he decided to turn in his SF 86. (Tr. 55)

Applicant said on August 30, 2012 the OPM investigator “started right away the questions, so I was – as she asked me a question I responded. But I know that I have th[is] problem and when she asked me about it, ‘What do you think about it?’ I told her, this is what happened.” (Tr. 61) Later he said, “Before she called me I told her I had bad debts.” (Tr. 61, 66) He was unclear about the sequence of events during his OPM personal subject interview (PSI). (Tr. 61, 65-66) He denied that he had attempted to hide his financial situation. (Tr. 47, 50) He knew he had delinquent debts, but he was under pressure to complete the form because his employer wanted him to go to work the next day. (Tr. 48) He denied that he had any intention to deceive the DOD about his financial situation. (Tr. 48-49)

The OPM summary of Applicant’s PSI indicates Applicant “was afforded the opportunity to provide any delinquent debts but non[e] were provided.” (GE 6) Applicant was then confronted with each delinquent debt on his credit report. (GE 6) He admitted that he was aware of some of his delinquent debts, but not others. (GE 6)

### **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.

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing 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 about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (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 [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Financial Considerations**

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

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

AG ¶ 19 provides two 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 OPM PSI, credit reports, SOR response, and hearing record. Applicant’s SOR alleges 12 delinquent, collection, or charged-off accounts and two judgments totaling \$27,228. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

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

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

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

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;<sup>4</sup> and

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<sup>4</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].

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

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

Applicant believes the accounts in SOR ¶ 1.c (\$1,276) and ¶ 1.d (\$1,216) are duplications of each other. The debt in SOR ¶ 1.k (\$567) is being collected by the creditor in SOR ¶ 1.g (\$567). He disputed his responsibility for the telecommunications debts in SOR ¶ 1.i (\$70) and ¶ 1.m (\$145), and he informed the creditors that he was not responsible for these debts. Applicant is credited with mitigating the debts in SOR ¶¶ 1.c, 1.i, 1.k, and 1.m.

Applicant's conduct in resolving his delinquent debt does not establish full application of any mitigating conditions to all of his SOR debts. He has been unemployed or underemployed for several years, and his income has been limited. Unemployment and underemployment are circumstances beyond his control that adversely affected his finances. However, he did not provide sufficient information about his finances to establish his inability to make greater progress paying his creditors, and he did not prove that he acted responsibly under the circumstances. He did not establish that his inability to make some modest payments in the last three years on at least one debt.

Applicant did not provide documentation showing his income and expenses, and he did not provide a budget. He did not provide sufficient documentation relating to the SOR creditors: (1) more proof of payments, photocopies of checks, or a letter from the creditor proving that he paid or made any payments to the creditor; (2) correspondence

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(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)).

to or from any creditors to establish maintenance of contact with creditors;<sup>5</sup> (3) documented attempts to negotiate payment plans, such as settlement offers or agreements to show that he was attempting to resolve these SOR debts; (4) evidence of financial counseling; or (5) other evidence of progress toward resolution of his SOR debts.

Applicant's failure to prove that he lacked the funds or made more substantial steps to resolve his debts shows lack of judgment and responsibility that weighs against approval of his security clearance. There is insufficient evidence that he was unable to make greater progress resolving his delinquent debts, or that his financial problems are being resolved, are under control, and will not recur in the future. Under all the circumstances, he failed to establish that financial consideration concerns are mitigated.

## **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 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 one condition that could raise a security concern and may be disqualifying with respect to the alleged falsification of his May 24, 2012 SF 86 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.<sup>6</sup>

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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.

<sup>6</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

Applicant admitted that he submitted his May 24, 2012 SF 86 knowing that it did not contain derogatory financial information about his history of delinquent debt. AG ¶ 16(a) is established.

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.

Applicant deliberately and improperly failed to disclose his debts over 120 days delinquent, debts in collection, charged-off debts, and a judgment on his May 24, 2012

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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)).

SF 86. An intentional omission allegation is not mitigated when an applicant admits the omission after an investigator tells him or her that the government has already learned facts establishing the omission.<sup>7</sup> In ISCR Case No. 05-10921 at 4 (App. Bd. Apr. 19, 2007) the Appeal Board considered an applicant's claim that he promptly disclosed his firing from employment to an investigator after falsely denying the termination from employment on his security clearance application stating:

. . . Applicant did not disclose his termination from the hotel until he was at his security clearance interview. The . . . investigating agent asked about the hotel in the context of previous employments and Applicant indicated he worked there. The investigator then asked if anyone at the hotel would have anything negative to say about Applicant, at which time Applicant supplied the investigator with a name and the hotel management. Subsequently, Applicant informed the investigator that he had been fired from the hotel.

The Appeal Board in ISCR Case No. 05-10921 at 4 (App. Bd. Apr. 19, 2007) affirmed the administrative judge's decision not to credit applicant with making a "prompt, good faith [effort] to correct the falsification before being confronted with the facts." *Id.* at 4-5. Stated differently, once it becomes apparent to an applicant that an investigator is likely to discover derogatory information, it is too late to receive mitigating credit under AG ¶ 17(a). In the instant case, Applicant said he disclosed the omission concerning his finances before being confronted with specific information from his credit report. The OPM PSI indicates he disclosed derogatory financial information after being confronted with the facts. I accept the OPM PSI as more credible than Applicant's statement at his hearing. The OPM investigator had no known reason to fabricate the content of the interview, and it was written in 2012, which was closer in time or more contemporaneous to the Applicant's PSI interview than Applicant's description of that interview at his hearing.

In sum, Applicant's falsification of his security clearance application by intentionally failing to disclose his negative financial information was improper and raised a security concern. He did not correct the omission, concealment, or falsification before being confronted with the facts. No mitigating conditions apply. Guideline E concerns are not mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

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<sup>7</sup>ISCR Case No. 02-30369 at 5 (App. Bd. Oct. 27, 2006) (sustaining denial of security clearance); ISCR Case No. 04-00789 at 7 (App. Bd. June 28, 2006) (reversing grant of security clearance); ISCR Case No. 99-0557 at 4 (App. Bd. July 10, 2000) (reversing grant of security clearance).

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under 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.

There is some evidence supporting approval of Applicant's clearance. Applicant is a 61-year-old financial-management analyst. In 1983, he received a bachelor's degree, and in 1987, he received a law degree in a foreign country. He has been unemployed or underemployed for several years, and his income has been limited. Unemployment and underemployment are circumstances beyond his control. He expressed an intention to pay his creditors when able to do so. Applicant is credited with mitigating the debts in SOR ¶ 1.c (\$1,276) and ¶ 1.k (\$567) as duplications, and the debts in SOR ¶ 1.i (\$70) and ¶ 1.m (\$145) as being disputed. There is no evidence of security violations, abuse of alcohol, or use of illegal drugs.

The evidence against approval of Applicant's clearance is more substantial. Applicant has a history of financial problems. His SOR, OPM PSI, and credit reports allege 12 delinquent, collection, or charged-off accounts and two judgments totaling \$27,228. Even after mitigating four debts, he is left with delinquent debts totaling about \$25,000. Applicant failed to provide sufficient documentation of progress resolving his financial problems. He did not provide any documentary evidence of payments to SOR creditors, payment plans, or his communications to SOR creditors, showing his attempts to resolve his SOR debts. He did not establish that he was unable to make some modest payments to at least one SOR creditor. His failure to provide more corroborating documentation shows lack of financial responsibility and judgment and raises unmitigated questions about Applicant's reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18. More specific and documented information about inability to pay debts or documented financial progress is necessary to mitigate security concerns.

Applicant intentionally failed to accurately disclose his delinquent debts on his May 24, 2012 SF 86. The DOD relies upon security clearance holders to provide accurate information especially in a security context, even when that disclosure may not be advantageous to the security clearance holder's financial or career interests. Applicant's "lack of candor . . . raise[s] questions about [his] reliability, trustworthiness and ability to protect classified information." AG ¶ 15.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Financial considerations and personal conduct concerns are not mitigated.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a and 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraphs 1.d through 1.h:	Against Applicant
Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	For Applicant
Subparagraph 1.l:	Against Applicant
Subparagraph 1.m:	For Applicant
Subparagraph 1.n:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

### **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.

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Mark Harvey  
Administrative Judge