



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



In the matter of:)
)
 [Redacted]) ISCR Case No. 19-00911
)
 Applicant for Security Clearance)

Appearances

For Government: Nicholas T. Temple, Esq., Department Counsel
For Applicant: *Pro se*

10/06/2020

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines J (Criminal Conduct), E (Personal Conduct), and F (Financial Considerations). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on October 6, 2017. On August 30, 2019, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines J, E, and F. The DOD CAF acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016).

Applicant answered the SOR on September 24, 2019, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on February

3, 2020, and the case was assigned to an administrative judge on February 6, 2020. On February 24, 2020, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on March 18, 2020. On February 27, 2020, Applicant requested a change of venue due to his reassignment to another duty station. On March 2, 2020, the hearing was cancelled.

The case was reassigned to me on March 10, 2020. The rescheduling of the hearing was delayed by the DOD worksite and travel restrictions due to the health risks posed by the COVID-19 virus. On July 31, 2020, DOHA notified Applicant that the hearing was rescheduled for August 24, 2020. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 9 were admitted in evidence without objection. Applicant testified but did not present the testimony of any other witnesses or submit any documentary evidence. DOHA received the transcript (Tr.) on September 2, 2020.

I kept the record open until September 11, 2020, to enable Applicant to submit documentary evidence. He timely submitted Applicant's Exhibits (AX) A through E, but they were submitted in a password-protected format that I could not open. I extended the deadline to allow him to submit his documents in a usable format. He resubmitted his documents on September 23, 2020, and the record closed on that day. AX A through E were admitted without objection.

Amendment of the SOR

Applicant disclosed in his SCA and testified at the hearing that he owed a child-support arrearage of about \$23,000. (GX 1 at 32; Tr. 26-27.) At the end of the hearing, Department Counsel moved to amend the SOR to conform to the evidence by adding SOR ¶ 3.d to allege, "You are indebted to the [state] in the approximate amount of \$23,000 for child support arrears. As of August 24th, 2020, the arrearage remains unpaid." Applicant did not object to the amendment. I kept the record open until September 11, 2020, to enable him to submit evidence regarding the medical debts, the child-support arrearage alleged in the amended SOR, and evidence from co-workers, supervisors, and friends about his trustworthiness, reliability, and good judgment. As noted above, I extended the deadline until September 23, 2020, when the record closed.

Findings of Fact

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.a-1.n, 2.a, and 3.a-3.c. He denied the allegation of falsifying his SCA in SOR ¶ 2.b. Although he stated that he admitted SOR ¶ 2.c, also alleging that he falsified his SCA, he stated that he was confused by the terminology of the question in his SCA. I have treated his response to SOR ¶ 2.c as a denial. At the hearing, he admitted the additional allegation in SOR ¶ 3.d. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Background Information

Applicant is a 39-year-old electrician employed by defense contractors since June 2013. He has worked for his current employer since October 2018. He served on active duty in the U.S. Navy from October 2001 to July 2009 and received an honorable discharge. He held a security clearance while in the Navy. He was unemployed from July 2009 to June 2013. While unemployed, he attended a university from September 2009 to February 2012 but did not receive a degree.

Applicant married in January 2003 and divorced in February 2009. He has a 15-year-old son born during this marriage, for whom he is required to pay child support of \$700 per month.

Criminal Conduct

SOR ¶ 1.a: In May 2000, Applicant was arrested and charged with disorderly conduct and resisting arrest. He pleaded guilty to disorderly conduct, was ordered to perform two days of community service, and was given a conditional discharge. (GX 3.) He testified that the incident occurred when the police shut down a nightclub shortly after he paid the entrance fee. He was demanding a refund of the entrance fee when a police officer pushed him and told him to go outside. Applicant testified that the police officer was verbally abusive and made derogatory comments. Applicant testified that he “nudged [the officer] not really purposely,” and had an angry verbal exchange with him, resulting in his arrest. (Tr. 30-31.)

SOR ¶ 1.b: In July 2001, Applicant was arrested and charged with grand larceny, reckless endangerment (2nd degree), and unauthorized use of a vehicle without the owner’s consent. He pleaded guilty to unauthorized use of a vehicle. (GX 6 at 6.) At the hearing, he testified that incident occurred after he was invited by some friends to go for a “joy ride” in a stolen vehicle, and he drove the vehicle a short distance until they were stopped by the police. He also testified that he received a ticket in the mail for driving the stolen car with a broken headlight and that he did not pay it, resulting in suspension of his driver’s license and his arrest in December 2002, discussed below. (Tr. 31-32.) In October 2001, shortly after this incident, Applicant enlisted in the Navy. He testified that his enlistment removed him from bad company, made him feel proud, and gave him a healthier perspective on life and a more positive social circle. (Tr. 33-34.)

SOR ¶ 1.c: In December 2002, Applicant was arrested and charged with operating a motor vehicle (the stolen vehicle involved in SOR ¶ 1.b) without a license and aggravated unlicensed operation of a motor vehicle (3rd degree). He pleaded guilty to operating a motor vehicle without a license and was fined \$50. (GX 3.) His license was suspended for failure to pay the fine. (Tr. 32.) In his answer to the SOR, he stated that he was unaware that his driver’s license had been suspended because he was no longer living in the state that had issued the license.

SOR ¶ 1.d: In December 2003, Applicant was arrested and charged with operating a vehicle on a suspended license. He admitted it in his answer to the SOR, but it is not reflected in any of the documentary evidence submitted at the hearing. At the hearing, Applicant testified that he was not sure about the disposition of this offense, because it happened so long ago. (Tr. 57-58.)

SOR ¶ 1.e: In April 2004, Applicant was charged with driving under the influence of alcohol (DUI) and driving with a suspended or revoked license. He was alone and returning from a party at a bar. He was stopped for speeding and failed a breathalyzer test. (Tr. 34-35.) He pleaded guilty to DUI and was sentenced to confinement for one year, with nine months suspended, suspension of his driver's license for one year, and a \$900 fine. (GX 2 at 6-7.) He testified that his three months in jail was embarrassing and caused him to miss the birth of his son. (Tr. 36.) He testified that he voluntarily completed an alcohol-education program offered by the VA. He was not diagnosed with an alcohol-abuse disorder on that occasion or any time thereafter. (Tr. 37.)

SOR 1.f: In November 2004, Applicant was arrested on a capias warrant and charged with a probation violation related to his DUI conviction in April 2004. In his answer to the SOR, he admitted this allegation and stated that his military obligations "restrained [him] from taking necessary steps to resolve past issues." This arrest is not reflected in any of the documentary evidence submitted at the hearing. At the hearing, he was not sure of the reason for this charge, but he believed that it arose because the court would not accept the VA education program as compliance with a court-ordered requirement for completing an alcohol-education program after his DUI conviction in April 2004. (Tr. 37-38.)

SOR ¶ 1.g: In September 2007, Applicant was charged with assault and battery on a family member and threatening bodily harm. He was convicted of assault and battery, fined \$200, and required to make restitution. (GX 4; GX 6 at 7.) At the hearing, he testified that he was trying to leave his home, but his wife blocked the door to prevent him from leaving. He testified that he picked up his wife and threw her onto a sofa so that he could leave. His wife accused him of choking her and inflicting bruises, but he denied it. (Tr. 20, 39-40.)

SOR ¶ 1.h: In March 2009, Applicant was arrested and charged with driving while intoxicated (DWI) (2nd offense) and refusal of a blood or breath test (2nd offense). (GX 5 at 3-6; GX 6 at 8.) At the hearing, he testified he had consumed only one beer. He denied refusing a breath test, but he testified that he pleaded guilty to both offenses on the advice of his lawyer. For the DWI, he was sentenced to confinement for 90 days, with 60 days suspended; suspension of his operator's license for three years, and a \$500 fine. For the refusal of a blood or breath test, he was sentenced to confinement for 30 days, with 10 days suspended, suspension of his operator's license for an additional three years, and a \$250 fine. He used public transportation to go to work, but he admitted that he continued to drive on short trips to school and the grocery store about three times a week while his license was suspended. (Tr. 41-44.)

SOR ¶ 1.i: In February 2012, Applicant was arrested and charged with operating a vehicle on a suspended or revoked license. He pleaded guilty and was sentenced to confinement for 365 days, suspended, probation for one year, and a \$250 fine. (GX 5 at 7.) He did not testify about the circumstances of this arrest and conviction.

SOR ¶ 1.j: In May 2012, Applicant was arrested and charged with assault and battery. In his answer to the SOR and at the hearing, he stated that he was charged due to false accusations by an ex-girlfriend. (Tr. 44-45.) The charges were dismissed. (GX 6 at 8.)

SOR ¶ 1.k: In December 2012, Applicant was arrested and charged with operating a vehicle with a suspended or revoked license, operating a vehicle with altered, forged, or fictitious license plates, and an illegal inspection sticker. He testified that he obtained the license plates and inspection sticker from a friend because he was “destitute and desperate” and needed to drive to attend school and look for work. (Tr. 45-46.) He was convicted of all offenses. For operating a vehicle with a suspended or revoked license, he was sentenced to confinement for 90 days, with 80 days suspended, probation for 24 months, and suspension of his operator’s license for two years. For the license plate violation, he was sentenced to confinement for 60 days, with 40 days suspended. For the inspection sticker violation, he was sentenced to confinement for 30 days, suspended, and probation for 24 months. (GX 5 at 11-17.)

SOR ¶ 1.l: In April 2014, Applicant was arrested and charged with contempt of court for failing to appear at a child-support hearing. He was found not guilty. (GX 6 at 8.) In his answer to the SOR, he stated that neither he nor his lawyer knew the court date and that the judge apologized and dismissed the charge.

SOR ¶ 1.m: During his background investigation, Applicant was interviewed by a security investigator in October 2018. During that interview, he admitted that he was arrested in 2015 and charged with driving a vehicle with a suspended driver’s license, an expired vehicle registration, and an expired safety inspection stocker. He pleaded guilty and was sentenced to confinement for ten days, with five days suspended, and a \$600 fine. He served his five days of confinement on weekends. (GX 2 at 6.) Other than the summary of Applicant’s interview, there is no documentary evidence of this incident in the record, and he did not testify about it at the hearing.

SOR ¶ 1.n: In December 2015, Applicant was arrested and charged with making a false statement on a criminal history form (a felony) and making a false statement to obtain a firearm. He pleaded guilty to a misdemeanor of falsely identifying himself to a law enforcement officer. He was sentenced to confinement for 12 months (suspended) and probation for 12 months. (GX 6 at 9.) He stated that he was confused by the terminology of the question in the form asking about domestic violence. At the hearing, he testified that he knew that he had been convicted of assault and battery on his then wife, but he was not specifically charged with domestic violence, and he did not know that his offense was considered domestic violence until he was charged with falsifying his application for a firearm purchase. (Tr. 47-51, 61.)

Personal Conduct

SOR ¶ 2.a: Cross-alleges the conduct in SOR ¶¶ 1.a-1.n.

SOR ¶ 2.b: The SOR alleges that Applicant falsified his SCA by deliberately failing to disclose the conduct alleged in SOR ¶¶ 1.i through 1.m. When he submitted his SCA, he answered “Yes” in response to questions in Section 22 of his SCA, asking if in the past seven years he had been issued a summons, citation, or ticket to appear in a criminal proceeding; been arrested by any law enforcement official; or had been charged, convicted, or sentenced in any court. He disclosed the criminal conduct alleged in SOR ¶ 1.n, but he did not disclose the criminal conduct alleged in SOR ¶¶ 1.i through 1.m. (GX 1 at 24-25.) In his answer to the SOR, he stated that he did not intentionally falsify information, but that his “rollercoaster of events” in his past made recollection of specific events unclear. At the hearing, he did not testify and was not questioned about this allegation.

SOR ¶ 2.c: The SOR alleges that Applicant falsified his SCA by deliberately failing to disclose the conduct alleged in SOR ¶¶ 1.g, 1.j, and 1.n. He answered “No” to questions in his SCA asking whether he had ever been charged with a felony or had even been convicted of an offense involving domestic violence. He did not disclose the criminal conduct alleged in SOR ¶¶ 1.g and 1.j, both alleging assault and battery on a family member. He did not disclose the felony charge alleged in SOR ¶ 1.n, but he disclosed his conviction of a misdemeanor as a lesser-included offense of the felony. (GX 1 at 26.) In his answer to the SOR, he admitted that he was charged with a felony for falsifying his firearms application but convicted of a misdemeanor. At the hearing, he testified that he answered “No” to the question about domestic violence because he did not know that assault on a family member was considered domestic violence. However, he admitted at the hearing that he learned in December 2015, well before he submitted his SCA, that assault and battery on a family member was considered domestic violence, which was why he was charged with falsifying his application to purchase a firearm. (Tr. 60-62.)

Financial Considerations

The SOR ¶¶ 3.a-3.c alleges three medical debts placed for collection of \$380, \$178, and \$704. The debts are reflected in the credit report from November 2017 as referred for collection and reflected in the credit report from January 2020 as unpaid (GX 8; GX 9.) Applicant admitted these allegations, but he stated in his answer to the SOR and at the hearing that he received care for a medical emergency and believed the medical care was covered by the Department of Veterans Affairs (VA). He provided no details about the nature of the medical emergency. He testified that his VA medical benefits were not active when he received the treatment because he did not have a primary care doctor. He testified that he contacted the VA, and that the VA told him it would handle the debts. Finally, he testified that he was offered a settlement of the \$704 debt, alleged in SOR ¶ 3.c, which he accepted and paid, but he admitted that the other debts were not resolved. (Tr. 24-25.) After the hearing, he submitted documentary evidence that the \$704 debt alleged in SOR ¶ 3.c was settled. (AX A.) He did not submit

any documentary evidence showing efforts to pay the debts alleged in SOR ¶¶ 3.a and 3.b, which remain unresolved.

SOR ¶ 3.d alleges a child-support arrearage of about \$23,000. The arrearage is not reflected in the two credit reports submitted by Department Counsel. (GX 8 and 9.) Applicant disclosed the arrearage in his SCA and admitted it at the hearing. (GX 1 at 32; Tr. 26-27.) He has \$700 per month deducted from his pay, but the deduction is for his monthly payments and not the arrearage. The record does not reflect whether the deduction is court-ordered or was voluntarily initiated by Applicant. He has taken no action to resolve the arrearage.

Character Evidence

Applicant's program director states that he has demonstrated that he is a "highly reliable, self-motivated, and trusted employee" since he was hired in October 2018. He considers Applicant to be dependable, responsible, honest, and courteous. (AX E.) Applicant's production manager for the last six months states that his hard work "has distinguished him as a cut above others and his trustworthiness cannot be understated." He describes Applicant as personable, with a cheery and hardworking attitude, and a trustworthy teammate who keeps spirits up among his comrades. (AX C.) Applicant's previous production manager from June 2013 to October 2018 states that he displayed the "utmost level of professionalism" with the potential to become a leader in his field. (AX D.)

A placement specialist at a community organization providing workforce development for disadvantaged and low-income workers in the construction industry, who has known Applicant for about five years, regards him as a "changed person with good moral character," who is "respectful, committed, trustworthy, ambitious, and a man of the highest integrity." She invited Applicant to be a guest speaker about leadership and supervisory roles for electricians. She described how Applicant was open about his past criminal record, and he encouraged his audience to have the courage to change and to not allow past mistakes to define them. She stated that, a month later, the students were still inspired by Applicant's remarks. (AX B.)

Policies

"[N]o 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 applicants 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 § 2.

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, an administrative judge applies these guidelines 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 and 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance 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 (4th 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. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

Analysis

Guideline J, Criminal Conduct

The concern under this guideline is set out in AG ¶ 30: “Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.” The evidence establishes the following disqualifying conditions under this guideline:

AG ¶ 31(a): a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

AG ¶ 31(b): evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

The following mitigating conditions are potentially relevant:

AG ¶ 32(a): so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

AG ¶ 32(c): no reliable evidence to support that the individual committed the offense; and

AG ¶ 32(d): there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

AG ¶ 32(a) is not established. More than four years have passed since Applicant's last arrest and conviction, but it was preceded by fifteen years of criminal conduct. Furthermore, he falsified his current SCA and persisted in his implausible explanations for his falsifications in his response to the SOR and at the hearing. I am not convinced that his irresponsible behavior will not recur.

AG ¶ 32(c) is established for the assault and battery alleged in SOR ¶ 1.j, which was based on a false accusation and for the contempt of court alleged in SOR ¶ 1.i, which was caused by the failure of court personnel to notify Applicant and his lawyer of a hearing. Both charges were dismissed for lack of evidence. This mitigating condition is not established for the other criminal conduct alleged

in the SOR. I have noted that there was no documentary evidence presented to support the allegations in SOR ¶¶ 1.d and 1.f, but those allegations were established by Applicant's admissions.

AG ¶ 32(d) is not established. Applicant's supervisors since October 2016 have attested to his outstanding performance, trustworthiness, and positive attitude. His work with a community organization dedicated to helping disadvantaged and low-income members of the community is commendable. However, his lack of candor in his SCA and his implausible explanations for his lack of candor preclude a finding that he is rehabilitated.

Guideline E, Personal Conduct

The security concern under this guideline 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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

The relevant disqualifying condition in this case is AG ¶ 16(a):

[D]eliberate 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 national security eligibility or trustworthiness, or award fiduciary responsibilities.

When a falsification allegation is controverted, as in this case, the Government has the burden of proving it. An omission, standing alone, does not prove falsification. An administrative judge must consider the record evidence as a whole to determine an applicant's state of mind at the time of the omission. See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004). An applicant's experience and level of education are relevant to determining whether a failure to disclose relevant information on a security clearance application was deliberate. ISCR Case No. 08-05637 (App. Bd. Sep. 9, 2010).

Applicant is a mature, experienced, and well-educated adult. His explanation for failing to disclose the criminal conduct alleged in SOR 1.i through 1.m was implausible and unconvincing. While he may not have recalled the details of all his multiple arrests and convictions, I am not convinced that he could not remember that he served jail time for the conduct alleged in SOR ¶¶ 1.k and 1.m and underwent a lengthy period when his driver's license was suspended. Likewise, I am not convinced that he did not realize that he had a conviction for domestic violence when he submitted his SCA in October 2017, because he admitted at the hearing that he learned that he had a domestic violence

conviction in December 2015, when he was charged with failure to disclose it in his application to purchase a firearm.

The following mitigating conditions are potentially applicable:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and

AG ¶ 17(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.

Neither mitigating condition is established. Applicant's omissions were recent, because they involved his current application for a clearance. They did not occur under unique circumstances. Even after being confronted with his omissions, he gave false and implausible explanations for them, which raise doubt about his current reliability, trustworthiness, and good judgment. His falsifications were not minor, because falsification of a security clearance application "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011.)

Financial Considerations

The security concern under this guideline is set out in AG ¶ 18:

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

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Applicant's admissions and the documentary evidence in the record establish the following disqualifying conditions under this guideline:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so;
and

AG ¶ 19(c): a history of not meeting financial obligations.

The following mitigating conditions are potentially applicable:

AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 20(b): the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(a) is not established. Applicant's delinquent debts are numerous, recent, and did not occur under circumstances making them unlikely to recur.

AG ¶ 20(b) is not fully established. Applicant encountered several conditions beyond his control. He was unemployed from July 2009 to June 2013. It is not clear from the record whether he was voluntarily unemployed while attending college. However, his employment from February 2012 to June 2013 was a condition beyond his control. He testified that his medical bills were for emergency treatment received before his veterans' medical benefits were activated. While a medical emergency would constitute a condition largely beyond his control, he did not provide any details about it. Regardless of the nature of the emergency, he has not acted responsibly. Although he resolved one of his three medical debts, he has taken no action to resolve the other two medical debts or his child-support arrearage.

Whole-Person Concept

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

- (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.

I have incorporated my comments under Guidelines J, E, and F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I have considered Applicant's military service, the favorable comments of his supervisors, and his commendable community involvement. His work record and community involvement reflect steps in the right direction to overcome his troubled past. I have also considered his lack of candor in his SCA and his implausible explanations for it, which indicate that he has not yet reached the point of rehabilitation. After weighing the disqualifying and mitigating conditions under Guidelines J, E, and F, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his criminal conduct, personal conduct, and delinquent debts.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline J (Criminal Conduct):	AGAINST APPLICANT
Subparagraphs 1.a-1.i, 1.k, 1.m, and 1.n:	Against Applicant
Subparagraphs 1.j and 1.l:	For Applicant
Paragraph 2, Guideline E (Personal Conduct):	AGAINST APPLICANT
Subparagraphs 2.a- 2.c:	Against Applicant
Paragraph 3, Guideline F (Financial Considerations):	AGAINST APPLICANT
Subparagraphs 3.a, 3.b, and 3.d:	Against Applicant
Subparagraph 3.c:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge