



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



In the matter of:	)	
	)	
[NAME REDACTED]	)	ISCR Case No. 19-01118
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric Price, Esq., Department Counsel  
For Applicant: Jeffrey D. Billett, Esq.

06/16/2020

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**Decision**

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MALONE, Matthew E., Administrative Judge:

Applicant mitigated the security concerns about his finances; however, security concerns raised by multiple security violations at a previous employer remain unresolved. Applicant’s request for a security clearance is denied.

**Statement of the Case**

On June 19, 2014, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain or renew eligibility for a security clearance required for his employment with a federal contractor. Based on the results of the ensuing background investigation, Applicant was subsequently awarded a top secret security clearance with eligibility for access to sensitive compartmented information (TS/SCI). A reinvestigation of his eligibility for a security clearance was initiated after response to reports of adverse information were entered in the Joint Personnel Adjudication System

(JPAS) beginning in January 2017. Those reports concerned security violations by Applicant in 2016 and 2017, as well as his financial problems at that time. Based on the results of that reinvestigation, Department of Defense (DOD) adjudicators could not determine, as required by Security Executive Agent Directive (SEAD) 4, Section E.4, and by DOD Directive 5220.6, as amended (Directive), Section 4.2, that it is clearly consistent with the interests of national security for Applicant to have a security clearance.

On May 24, 2019, DOD issued to Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under the adjudicative guidelines for financial considerations (Guideline F) and handling protected information (Guideline K). The guidelines cited in the SOR were part of the current set of adjudicative guidelines (AG) issued by the Director of National Intelligence on December 10, 2016, to be effective for all adjudications on or after June 8, 2017.

Applicant timely responded to the SOR (Answer) and requested a hearing before an administrative judge at the Defense Office of Hearings and Appeals (DOHA). I received the case on November 25, 2019 and convened the requested hearing on January 28, 2020. The parties appeared as scheduled. DOHA received a transcript of the hearing (Tr.) on February 10, 2020. With his Answer, Applicant included documents in support thereof. Without objection, they remained attached to the Answer and were admitted as evidence. Department Counsel proffered Government Exhibits (GX) 1 – 10. Applicant testified and proffered Applicant Exhibits (AX) A – R. All exhibits were admitted without objection.

I held the record open after the hearing to allow Applicant to submit additional information. On February 14, 2020, Applicant submitted AX S and T, to which Department Counsel did not object. Additionally, due to time constraints on the day of hearing, I directed the parties to submit their closing arguments in writing. Included in this record are Hearing Exhibit (HX) 1 (Index of Government Exhibits and Index of Applicant's Exhibits), HX 2 (Department Counsel's Discovery Letter, dated September 20, 2019), HX 3 (Department Counsel's waiver of objection to Applicant's post-hearing submissions), and HX 4 (Closing Arguments with Rebuttal by Department Counsel). The record closed on March 16, 2020, when I received Department Counsel's Rebuttal to Applicant's Closing Argument.

### **Findings of Fact**

Under Guideline F, the Government alleged that Applicant owed 12 delinquent or past-due debts totaling \$147,968 (SOR 1.a – 1.i). In response, Applicant admitted with explanation SOR 1.a, and he denied with explanations SOR 1.b – 1.i. Under Guideline K, the Government alleged that Applicant failed to properly perform his oversight duties as an information systems security officer (ISSO) (SOR 2.a); that in 2016 and 2017, he falsified records to show that he had performed required audits of classified information systems when he knew he had not done so (SOR 2.b); that in February 2016, Applicant violated security procedures by leaving a computer hard drive unsecured (SOR 2.c); that

in May and December 2016, he failed to follow required security procedures related to his personal travel abroad (SOR 2.d); and that in January 2017, he violated security procedures by failing to properly secure a classified area and container (SOR 2.e). In response, Applicant denied with explanations SOR 2.a and 2.b, and he admitted with explanations SOR 2.c – 2.e. (Answer; Tr. 6 – 7) In addition to the facts established by Applicant's admissions, I make the following findings of fact.

Applicant is 38 years old and works in an information technology (IT) position for a defense contractor. He was hired by his current employer in November 2017. Prior to his current job, Applicant worked as an information systems security officer for a large defense contractor (Company A) from June 2014 until November 2017. Applicant served on active duty in the United States Navy from November 2000 until he was honorably discharged as a petty officer first class in May 2011. Following his discharge, Applicant affiliated with the Navy Reserve where he continues to serve as a drilling reservist. After leaving high school, Applicant attended college for one year before enlisting in the Navy. While in the Navy, he obtained two associate's degrees. After leaving active duty, Applicant returned to the college he attended after high school and obtained a bachelor's degree in information technology in December 2013. Between May 2013 and November 2014, he worked in two IT jobs before being hired by Company A. (GX 1; GX 2; AX B; AX C)

Applicant has been married twice. His first marriage began in September 2001 and ended by divorce in March 2009. Together they have one child for whom Applicant is required to pay \$750 in monthly support. Applicant remarried in April 2015. He and his wife now have three children together and his wife's child from before the marriage. Applicant also has another minor child for whom he pays \$700 in monthly support. (GX 1; GX 2; Tr. 16 – 17)

Applicant's duties at Company A required his qualification for work with Special Access Programs (SAP). These programs are compartmented within larger missions that require broader collateral access up to and including top secret clearances. SAP access and personnel security management is governed, in relevant part, by DOD Manual (DODM) 5205.07, Volume 2, Enclosure 5. Applicant's security clearance was first granted while he was on active duty. His 2014 e-QIP was submitted to renew his eligibility and likely upgrade his access to top secret. Before being granted SAP access in 2014, he completed a Company A pre-screening process during which he disclosed much of the adverse financial information that is addressed in the SOR under Guideline F. Available information supports the factual allegations under Guideline F. Those debts alleged are, or were, properly attributable to Applicant. (Answer; GX 1 – 6)

Applicant's financial problems stem from the purchase of a house and an undeveloped lot in 2004. Applicant was still on active duty in State A and his first wife also contributed income to the marital finances. Applicant used a reenlistment bonus to invest in the lot. In October 2005, Applicant was transferred cross country to State B, so he began to rent out the house in State A. In 2009, when he and his wife divorced, Applicant

could no longer rely on her income to cover all their expenses. At the same time, Applicant began paying child support. For a time, Applicant had renters in his State A house and was able to cover the mortgage even after his divorce; however, in 2013 he incurred another child support obligation and, in 2015, he was unable to afford major repairs to his rental property and he was forced to release his tenants from their lease. Thereafter, because Applicant was unable to cover his mortgage or sell the house, the mortgage was foreclosed in 2016. It does not appear from the most recent credit reports that Applicant has any remaining obligation for the mortgage. (Answer; GX 1 – 6; AX G; Tr. 22 – 29, 31, 34, 88)

As to the undeveloped lot Applicant purchased in 2004, he also defaulted on that mortgage in 2015 for the same reasons his house mortgage was foreclosed. The value of the lot, which was part of a planned housing development, fell during the national economic recession. As a result, he was unable to sell the lot to resolve the remaining \$32,930 of his mortgage obligation and it was foreclosed in April 2016. The lot was later sold at auction for \$34,000; however, a credit report in August 2016 reflected two civil judgments against Applicant in favor of the homeowners association (HOA) of that development (alleged at SOR 1.c and 1.d) totaling \$13,749. In a June 2017 subject interview, Applicant stated that he owed the HOA \$3,000 for HOA fees he initially did not know about. An initial judgment for \$6,000 was obtained in September 2011. That action was filed in State A's magistrate court, a court of limited jurisdiction. Another judgment for \$7,749 was obtained in March 2015. That action was filed in State A's superior court, a court of general jurisdiction. Both judgments were obtained by default of Applicant. His position throughout this adjudication has been that the debts alleged at SOR 1.c and 1.d are one in the same. He also believed his obligation for any HOA debt was resolved when the mortgage on his lot was foreclosed. Available information is not conclusive as to the status of any remaining HOA obligation. Although both SOR 1.c and 1.d appeared on the August 2016 credit report, they do not appear on credit reports in March 2019, October 2019, or January 2020. (Answer; GX 1 – 5; AX G; AX J; AX R; AX T; Tr. 29 – 31, 33 – 34, 86 – 88)

Applicant also became delinquent on other personal credit accounts. SOR 1.a represents a credit card account for \$7,448 opened in 2001 that became delinquent in 2017. Applicant initially did not act to resolve this debt on advice of a financial counseling company. According to a January 2020 credit report, Applicant at one point was in a partial repayment plan on this debt. According to a January 24, 2020 letter from the creditor, Applicant has settled the debt by paying \$1,489. Applicant also claims that the SOR 1.h debt to the same creditor is a duplicate of SOR 1.a. This was not controverted at hearing and the record evidence as a whole supports Applicant's claim in this regard. (AX H; Tr. 32, 84 – 85)

The debt at SOR 1.b was for a student loan related to his undergraduate studies that became delinquent in 2018 and was referred for collection in January 2019. Applicant resolved this debt in May 2019 as he was trying to qualify for a mortgage. (Answer; GX 4; AX I; Tr. 32 – 33, 85 – 86) Applicant settled the delinquent credit card debt at SOR 1.f

in December 2017. The debts at SOR 1.j, 1.k and 1.l were for a delinquent cell phone account, a delinquent electrical bill, and a delinquent bill for dental services, respectively. When Applicant left Company A in 2017, he paid SOR 1.j and 1.k with funds withdrawn from his Company A retirement account. He paid the SOR 1.l account in October 2016. (Answer; AX N; AX R; AX S; Tr. 40 – 42)

In addition to his mortgage-related debts, Applicant also fell behind on his child support obligations to his ex-wife. Those payments were ordered by the court as part of their divorce decree. When Applicant could no longer afford to pay his house and lot mortgages, his ex-wife agreed to take a lesser amount. Applicant continued to pay each month at the reduced amount for about two years; however, Applicant's ex-wife subsequently petitioned the court to order Applicant to pay the balance he would have paid according to the original support order. That amount was the debt alleged at SOR 1.g. The debt alleged at SOR 1.i is a duplicate of SOR 1.g. Applicant no longer owes the debt at SOR 1.g. In addition to increased payments he has made on his \$7,776 arrearage since June 2011, \$5,000 in federal income tax refunds for the 2014 and 2015 tax years were diverted and applied to his child support debt. Applicant has always paid his child support obligations as required for his other child. His total child support obligation is now \$1,293 each month. (Answer; GX 2 – 5; AX M; AX O; Tr. 37 – 40, 88)

In 2016, Applicant was considering filing for bankruptcy and was advised he would qualify for at least Chapter 13 protection. In the end, he decided to use funds from his Company A 401k to resolve as much of his debt as possible. He also was told he would be getting a raise at Company A; however, he left for a better opportunity with his current employer. He now earns more than he would have even with the Company A raise, and his working conditions are less stressful. In May 2019, Applicant and his wife obtained a Department of Veterans Affairs (VA) mortgage and bought a house. Applicant has been able to improve his credit score and resolve most of his debts since late 2017 and early 2018. In October 2017, he enlisted the services of Lexington Law to resolve discrepancies in his credit history, help negotiate with some of his creditors, and to set up payment plans. In April 2018, he started working with Trinity Enterprises to accomplish similar financial goals, but with more focus on mortgage qualification. Applicant also submitted a personal financial statement dated January 23, 2020 that shows he and his wife have about \$2,800 remaining each month after expenses. His income includes a monthly \$2,237 disability benefit from the VA. (Answer; GX 2; AX D; AX G; AX AX O – R; Tr. 95)

During his employment with Company A, Applicant committed multiple security violations. On February 17, 2016, he was part of a team conducting a large-scale upgrade of system hardware and Windows operating systems. The effort involved between 300 and 400 workstations and required temporary storage of classified hard drives. The specified manner of storage, even in spaces approved for open shelf storage, was to store the drives in safes within those spaces. During a routine security inspection, a classified hard drive, determined to be Applicant's responsibility, was found in a secure spec but not in an approved safe. (Answer; GX 2; GX 6; GX 8; Tr. 67 – 70)

At Company A, Applicant initially was assigned as the ISSO for a SAP program. His duties involved security oversight of SAP information systems, including weekly audits of those systems to ensure compliance with government contract security requirements. Such audits generally are intended to detect system connectivity issues and various data processing anomalies. Within the SAP programs to which he was assigned, Applicant's area of responsibility was limited to a manageable number of systems that could be audited automatically, and he did not experience any difficulties fulfilling his ISSO obligations. In late 2014, he was assigned additional duties to assist the ISSO for collateral programs. At first Applicant was able to keep up with these tasks, which comprised about half of his time on the job. It also appears that the ISSO Applicant was assigned to help had long been overworked in a job that required more than one or two persons to perform. Although Applicant was trained in the SAP automated systems audit process generally, he was not familiar with the procedures for auditing the more complex and interrelated collateral IT systems. His training was accomplished mainly through on-the-job instruction by the incumbent. After a few months of stressful conditions, she accepted a transfer to a different, lower paying position to get away from the ISSO position. Applicant was left as the sole ISSO responsible for auditing all of the collateral IT systems on site. He quickly found himself "stretched thin" and overwhelmed. (Answer; GX 2; Tr. 42 – 47, 66 – 67, 84)

In December 2016, in preparation for a government accountability review, Company A conducted an internal inspection of its compliance with security requirements for the IT systems Company A managed for the government at the site where Applicant was employed. That inspection showed that Applicant had failed to conduct and/or document required weekly system audits for the program to which Applicant was assigned. Specifically, the inspection determined that weekly audits were not being completed with the required 100 percent accuracy each week and that Applicant had not signed the audit logs as required. As to the accuracy requirement, Applicant acknowledged that he had omitted information regarding minor anomalies, but explained that he had been advised this was acceptable by his predecessor. Applicant also admitted that in April 2016, he stopped signing the physical audit completion sheet and started signing it on an automated system. Doing so was a procedural violation and Applicant did not seek guidance on this before changing that part of his audit methodology. Finally, it was determined that Applicant had falsified the contents of audit-results folders for the nine weeks between July 13, 2016 and September 8, 2016. On review, although it first appeared that the folders were properly populated with audit results, it also was determined that the systems being audited could not have produced that information because they were not connected to the system domain that ran the audits and where the folders resided. Had Applicant actually done the audits in question, he would have known that the systems were not connected. During the Company A investigation into Applicant's audit discrepancies, Applicant acknowledged that he had not conducted the audits with 100 percent compliance. He also acknowledged that he did not make his supervisors aware of his difficulties and concerns. On January 7, 2017, he was issued a written reprimand and warning. (Answer; GX 2; GX 6 – 10; Tr. 47 – 57, 59 – 63, 90 – 92)

As a result of the inspection, an internal Risk Assessments and Mitigating Systems (RAMS) review was conducted. In addition to the audit discrepancies and violations, it was found that Applicant did not comply with DODM 5205.07 requirements for reporting of personal foreign travel. In relevant part, SAP personnel are required to report to the cognizant security official any planned foreign travel no less than 30 days in advance. In December 2016, Applicant and his wife spent one afternoon (less than eight hours) in a foreign country when the cruise ship he was on made a brief port call. Applicant mentioned this part of his trip when he returned but had to be reminded to report it to security. At the time, Applicant did not think such activity met the reporting requirement. In May 2016, Applicant and his wife traveled for a week to a foreign country but gave only eight days' notice rather than the required 30 days. Applicant claimed he had forgotten about the trip, which his wife had arranged, until the week before he was to go on vacation. (Answer; GX 2; GX 6 – 10; Tr. 63 – 66)

The December 2016 Company A investigation into Applicant's audit discrepancies was thoroughly documented and included statements by several witnesses and by Applicant himself. In addition to the written reprimand and warning, he was required to complete refresher training on general security procedures and on procedures specific to his ISSO duties. Applicant also was counseled by his supervisors, who recognized that he had been placed in a difficult situation. He was removed from SAP access and from the collateral program where he committed his auditing violations; however, he continued to perform ISSO functions for a different collateral program, including audits for the remainder of his tenure at Company A. (GX 6 – 10; Tr. 74 – 79)

In 2017, Applicant committed two additional security violations before leaving Company A. On January 30, 2017, he failed to properly secure a sensitive compartmented information facility (SCIF) at the end of his workday. Although he properly activated the alarm for that space, he did not completely secure a physical lock on the door. The lock was closed but was not properly on the hasp to secure the door. On Monday, February 13, 2017 Applicant signed an audit log indicating that he had performed a required weekly audit of a particular computer workstation for activity on that computer for the preceding week, February 6 through February 10. A review of that computer on February 20, 2017 showed that no one had logged onto it after Wednesday, February 8. Anyone auditing that workstation would have had to log onto it to perform the required audit. During a September 2018 subject interview, Applicant claimed that both violations were due to mistake or oversight. As to the improperly secured SCIF, Applicant claimed the circumstances were similar to a March 2015 violation when he failed to properly secure a combination lock on the door to a different SCIF. These violations occur often and usually are a product of mundane repetition. As to the audit violation, Applicant claimed he simply missed one of the ten stations he was tasked with auditing. The explanation captured in the summary of his subject interview does not explain why he signed the audit log for that station when he could not have performed the audit without logging on to it. (GX 2; GX 8; Tr. 54, 71 – 73)

Applicant has an excellent reputation among his friends and his Navy Reserve shipmates. He also has established a sound record of performance for his current employer. Information provided in this regard notes his reliability and good character. His personal references are familiar with the SOR allegations and yet expressed no reservations about recommending Applicant for a position of trust. His active duty career included three Good Conduct Medals, a Navy and Marine Corps Achievement Medal, and qualifications as an Enlisted Submarine Warfare Specialist. Applicant testified he has learned from his mistakes at Company A, and he believes his biggest mistake was his failure to more assertively advise his supervisors of the difficulties he was having and the need for additional resources. (Answer; AX A – F; Tr. 78 – 79).

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines (AG). (See Directive, 6.3) Decisions must also reflect consideration of the factors listed in ¶ 2(d) of the guidelines. Commonly referred to as the “whole-person” concept, those factors are:

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

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest for an applicant to either receive or continue to have access to classified information. (See Department of the Navy v. Egan, 484 U.S. 518)

The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a “right” to a security clearance, an applicant bears a heavy burden of persuasion. (See Egan, 484 U.S. at 528, 531) A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a



compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as his or her own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant’s suitability for access in favor of the Government. (See Egan; AG ¶ 2(b))

## **Analysis**

### **Financial Considerations**

The Government’s information established that Applicant accrued numerous delinquent or past-due debts that as of the issuance of the SOR remained unresolved. Three mortgage or real property-related debts accounted for about 75 percent of the total debt at issue. This information reasonably raised a security concern about Applicant’s finances that is articulated at 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

Applicant did not pay the mortgages he obtained for the purchase of a house and an undeveloped lot in 2004. Both were foreclosed and at least one civil judgment was obtained against him by the HOA for the development where the lot was located. Additionally, Applicant became delinquent on several personal accounts for credit cards, cell phones, electricity, and a student loan. Finally, Applicant fell behind on a child support obligation for the child of his first marriage. That debt resulted in the diversion of two years of income tax refunds to pay the arrearage due. All of the foregoing requires application of the following AG ¶ 19 disqualifying conditions:

- (a) inability to satisfy debts; and
  
- (c) a history of not meeting financial obligations.

Applicant responded with information showing that his financial problems arose from unforeseen or uncontrollable circumstances, namely, his divorce in 2009 meant less

income and additional expenses in the form of child support. An additional child support obligation arose in 2013. By that time, he had left the military and not working full time because he was trying to complete his college education. Finally, the house he had been leasing out developed needed repairs that he could not afford with his limited resources. Without being repaired, the house could not be leased and Applicant lost the rental income he needed to cover the mortgage. After losing the house to foreclosure in 2016, Applicant had no further obligation for that account. Applicant also lost the lot to foreclosure, but it is not clear from this record if foreclosure of the lot extinguished Applicant's obligation to pay the HOA judgments. It also is not reasonable to conclude from this record that there is more than one judgment. It is more likely that the original judgment filed in a lower court was renewed in a court of record to preserve the higher balance with accrued interest. In either case, Applicant is attempting to determine his obligation, if any, after foreclosure and his current finances show he has the means with which to resolve it. Applicant paid the debts at SOR 1.f, 1.i, and 1.l before the SOR was issued. He also has resolved the debts at SOR 1.a, 1.b, and 1.h. Rather than file for bankruptcy, Applicant used funds from a Company A retirement account to resolve as much of his debt as he could under the circumstances.

As to his past-due child support obligations, Applicant does not benefit from the fact that most of that debt was resolved by tax refund diversions. Nonetheless, he has never failed to pay at least part of either of his child support debts. The arrearage in one of those accounts arose out of the same circumstances that caused Applicant to lose his house and an investment property to foreclosure. Applicant has resolved the arrearage on one of his child support accounts and has never missed paying the other. An examination of his current finances shows that he has significant positive cash flow each month, that he has not incurred any new past-due or delinquent debts since 2016, and that he manages his finances in a prudent fashion. Between late 2017 and early 2019, he worked with two credit repair and counseling companies in late 2017 to negotiate with his creditor, organize repayment of his debts, and improve his credit so that he could buy another house, which he did in May 2019.

All of the foregoing supports application of the following AG ¶ 20 mitigating conditions:

- (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; and
- (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.

Available information about Applicant's response to his financial problems, and about his current finances, is sufficient to mitigate the security concerns under this guideline.

### **Handling Protected Information**

The Government established that Applicant committed several security violations while employed at Company A in 2016 and 2017. Available information reasonably raised a security concern about Applicant's willingness or ability to properly safeguard sensitive information. That security concern is stated at AG ¶ 33:

Deliberate or negligent failure to comply with rules and regulations for handling protected information-which includes classified and other sensitive government information, and proprietary information-raises doubt about an individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern.

In 2016 and 2017, Applicant intentionally made false statements when he attested by his signature that he had conducted audits of government IT systems as required and in the manner specified by the government. He also committed other seemingly inadvertent violations through not properly reporting his foreign travel, failing to fully secure a SCIF, and leaving a classified hard drive improperly secured. Applicant committed two of the documented violations in January and February 2017 after being scrutinized and counseled during an exhaustive internal investigation of his failure to comply with audit procedures in 2016. His February 2017 violation was a repeat of his audit failures and involved a deliberate falsification of the audit log. I also remain concerned about the validity of the explanation of that incident he provided to an investigator in September 2018. All of the foregoing requires application of the following AG ¶ 34 disqualifying conditions:

- (b) collecting or storing protected information in any unauthorized location;
- (g) any failure to comply with rules for the protection of classified or sensitive information; and
- (h) negligence or lax security practices that persist despite counseling by management.

I also have considered the potential application of the following AG ¶ 35 mitigating conditions:

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

(b) the individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities;

(c) the security violations were due to improper or inadequate training or unclear instructions; and

(d) the violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern.

AG ¶ 35(d) applies, in part, to Applicant's travel reporting violations, his failure to fully secure a SCIF, and his improper storage of a single hard drive. All three can be ascribed to unintentional oversight or to a misunderstanding of the particular security requirement at issue. However, mitigation of these incidents is limited because they are part of a larger history of violations.

AG ¶ 35(c) does not apply. Although before the fact, Applicant was not trained specifically in how to audit collateral systems, all of the information probative of his audit violations shows that he understood what was required of him. On the issue of being overwhelmed, that may well have been the case; however, he also knew he should have alerted his chain of command to the fact that he was not meeting his assigned obligations for whatever the reason was.

AG ¶ 35(c) does not apply. After being made aware of his audit discrepancies and violations by the results of the internal investigation in December 2016, Applicant received counseling and refresher training about his security and ISSO responsibilities. Nonetheless, in February 2017, he failed to complete a required audit and deliberately falsified the audit signature sheet to give the impression that he had done the audit. Further contributing to the security concern about this event is the version of events that he provided to an investigator in September 2018, which directly contradicts the findings of the Company A investigation conducted in February 2017. This information also undermines application of the mitigating condition at AG ¶ 35(b). On balance, the record evidence as a whole precludes mitigation of the security concerns raised under this guideline.

I also have evaluated this record in the context of the whole-person factors listed in AG ¶ 2(d). I note in particular Applicant's record of military service and his good performance in his current job. I also recognize the good judgment exhibited in attempting to resolve the financial difficulties he experienced due to factors beyond his control. Nonetheless, this positive information is not sufficient to overcome the significant security ramifications of his multiple and, at times, deliberate security violations. Those concerns remain unresolved and sustain doubts about Applicant's suitability for continued access to classified information. Because protection of the interests of national security is the principal focus of these adjudications, those doubts must be resolved against the Applicant's request for clearance.

### **Formal Findings**

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

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a – 1.l:	For Applicant
Paragraph 1, Guideline K:	AGAINST APPLICANT
Subparagraphs 2.a – 2.e:	Against Applicant

### **Conclusion**

In light of all of the foregoing, it is not clearly consistent with the interests of national security for Applicant to have access to classified information. Applicant's request for a security clearance is denied.

MATTHEW E. MALONE  
Administrative Judge