



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



In the matter of:)	
)	
[Redacted])	ISCR Case No. 19-02097
)	
Applicant for Security Clearance)	

Appearances

For Government: Nicole A. Smith, Esq., Department Counsel
For Applicant: Donna Price, Esq.

03/20/2020

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations) and E (Personal Conduct). Applicant has refuted the allegation that he deliberately falsified his security clearance application (SCA), and he has mitigated the security concerns raised by his delinquent debts. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted an SCA on May 17, 2018. On July 26, 2019, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F and E. 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 3, 2019, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on January 2, 2020, and the case was assigned to me on January 9, 2020. On February 7, 2020, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled for February 27, 2020. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 4 were admitted in evidence without objection. Applicant testified, presented the testimony of four witnesses, and submitted Applicant's Exhibits (AX) 1 through 5, which were admitted without objection. DOHA received the transcript (Tr.) on March 6, 2020.

On March 11, 2020, I reopened the record for clarification of Applicant's performance evaluations in AX 4.a and 4.f. Applicant submitted AX 4.g and 4.h and an explanation of the new exhibits, which I marked as AX 4.i. The three new exhibits were admitted without objection. The record closed on March 16, 2020.

Findings of Fact

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.a-1.g and denied the allegation in SOR ¶ 2.a. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 42-year-old program manager and cost analyst employed by a defense contractor since September 2014. He earned a bachelor's degree in May 1999. He was employed by defense contractors from June 2000 to December 2011, and he was a civilian employee of the Navy from December 2014 to August 2014. He has held a security clearance since 2001. (Tr. 77.)

Applicant married in September 2007, separated in February 2013, and divorced in August 2017. His marriage began to deteriorate in 2012, and he and his then wife began marriage counseling in 2013. They separated when Applicant's wife moved out of the marital home without notice, taking their two children with her. His wife left him a letter notifying him to call her lawyer if he wanted to see their children. (Tr. 80.)

Applicant has lived with a cohabitant since March 2014. He has two children from his previous marriage, ages 11 and 7. He and his cohabitant have two children, ages 4 and 3.

When Applicant and his wife separated, all the family debts were current. However, the divorce was contentious, drawn-out, and expensive. In August 2015, Applicant contacted an attorney regarding a divorce and possible bankruptcy filing. He testified that his financial situation had fallen apart, he was "treading water," and he needed help. When he contacted the attorney, his net monthly income was \$6,899, his expenses were \$6,595, and his debt payments were \$1,654, leaving a monthly shortfall of \$1,350. (AX 3.d.2.) The lawyer advised Applicant to file a joint bankruptcy before the divorce to save legal fees and avoid having to litigate responsibility for marital debt. He also advised Applicant that, if he intended to file a bankruptcy petition, he should stop paying

unsecured creditors whose debts were likely to be discharged. (AX 1.) At the time, Applicant and the lawyer believed that the divorce hearing was imminent. Applicant notified his security officer that he was considering bankruptcy. (Tr. 93-94.)

In October 2015, Applicant's ex-wife filed a petition for bankruptcy. She obtained a bankruptcy discharge, leaving him solely responsible for what had been joint marital debts. (Tr. 89-90.)

Applicant's divorce was not granted until August 2017. By then, he had incurred about \$34,000 in legal fees. He also was required to pay his wife's legal fees, child support, and allocation of marital debt totaling about \$39,085.

When Applicant submitted his SCA in May 2018, he and his cohabitant had pooled their assets and had net monthly income of \$11,981, expenses of \$5,811, debt payments of \$5,064, and a net remainder of about \$1,107. (AX 3.e.2.) At the time of the hearing, he and his cohabitant had net monthly income of \$11,524, expenses of \$6,177, debt payments of \$10,212, and a net remainder of about \$1,311. (AX 3.f.)

When Applicant submitted his SCA, he had total indebtedness of about \$94,696. Before the SOR was issued, he paid off several debts not alleged in the SOR, including a \$19,000 student loan. (AX 3.a at 6.) As of the date of the hearing, Applicant had paid his lawyers in full; he had reduced his financial obligation to his ex-wife from \$39,085 to \$20,688; and his total indebtedness had been reduced to \$72,184. (Tr. 88-89; AX 3.h.)

The SOR alleges seven delinquent debts totaling about \$37,082. The evidence concerning these debts is summarized below.

SOR ¶ 1.a: unsecured personal loan charged off for \$17,065. This debt originated as a car loan obtained by Applicant and his ex-wife in February 2012. They applied to another lender for refinancing of the loan to obtain a lower interest rate, and their application was approved in January 2013. (AX 2.a.1.) However, after they separated in February 2013, Applicant's then wife had possession of the car and refused to sign the car title. Thus, the refinancing was never completed, and they fell behind on the payments. In May 2013, Applicant obtained an unsecured personal loan from the original creditor, at a significantly higher interest rate, to pay off the original secured car loan. (Tr. 107-110.) Applicant's last payment on the unsecured loan was in August 2015, when he was considering bankruptcy. He did not consider continuing the payments because the bankruptcy attorney advised him that this creditor was not likely to pursue him. (Tr. 111.) The debt was charged off in March 2016. In October 2019, the creditor offered to settle it for \$5,119. (AX 2.a.3.) In January 2020, the creditor again offered to settle the debt, this time for \$5,973. (AX 2.a.4.) The debt is not settled. Applicant testified that he intends to pay this debt, even though his attorney has told him that collection is barred by the statute of limitations. (Tr. 99-100.)

SOR ¶ 1.b: credit-card account charged off for \$12,513. This credit card was issued by the same creditor as alleged in SOR ¶ 1.a and it was jointly held by Applicant

and his ex-wife. His ex-wife's obligation was extinguished by her bankruptcy discharge. Applicant's last payment on this debt was in September 2015, and it was charged off in November 2015. (AX 3.a at 1.) In January 2020, the creditor offered to settle the account for \$4,379, but Applicant has not accepted the offer or made any payments on this debt. (Tr. 101.)

Based on Applicant's conversations with the bankruptcy lawyer, he believed that the creditor would not pursue him for the debts alleged in SOR ¶¶ 1.a and 1.b. He also knew that the debts alleged in SOR ¶¶ 1.a and 1.b were not accruing interest, and so he concentrated on paying other high-interest debts first. (Tr. 117.) At the hearing, he admitted that he had been receiving letters from this creditor about twice a year, but he did not identify which of the three debts to this creditor were the subject of those letters. He testified that he had not received any letters from this creditor for a couple of months, and his indebtedness to this creditor "just wasn't on [his] mind" when he submitted his SCA. (Tr. 115.) He testified that he had put these debts on the "back burner" until he could revisit them when he was financially able to resolve them. He estimated that it would be two and half years before he will have paid off his court-ordered obligations to his ex-wife and will be able to address the debts in SOR ¶¶ 1.a and 1.b. (Tr. 116-18.)

SOR ¶ 1.c: credit-card account charged off and reduced to judgment for \$6,084. This debt was charged off in July 2014. (GX 2 at 2.) The collection agency filed suit in October 2015. In November 2015, Applicant notified the collection agency that he was unable to repay the debt. (AX 2.c.1.) The collection agency obtained a judgment in April 2016. (GX 4.) Applicant testified that initially the creditor wanted the entire amount paid in full and there was no negotiation about a payment plan. He also testified that the collection attorneys made no efforts to collect the debt by garnishment or other means. (Tr. 120.) However, in September 2019, Applicant began repaying this debt under a payment plan providing for monthly \$260 payments. He has paid about \$1,560 on this debt. His payments were current through January 2020. (Tr. 101; AX 2.c.)

SOR ¶ 1.d: utility bill placed for collection of \$165. This debt was for utilities for a townhouse jointly owned by Applicant and his ex-wife. They purchased the property before they were married and kept it as a rental property when Applicant began working for a defense contractor in another state. The tenants did not timely pay the rent, and Applicant could not afford the payments on the mortgage loan. The loan on the property was foreclosed in May 2014 and the property was sold. There was no deficiency after the foreclosure sale, and the defaulted mortgage on the rental property is not alleged in the SOR. The utility bill is listed in the April 2019 credit report as disputed but does not reflect the date or the basis for the dispute. (GX 2 at 2.) Applicant paid it in August 2019. (AX 2.d.)

SOR ¶¶ 1.e and 1.f: delinquent medical bills for \$148 and \$58. In Applicant's answer to the SOR, he stated that the divorce court ordered his ex-wife to pay these debts. After she received a bankruptcy discharge, Applicant paid one bill in August 2019 and the other in November 2019. (AX 2.e; AX 2.f.)

SOR 1.g: line of credit referred for collection of \$1,049. The creditor for this debt is the same creditor alleged in SOR ¶¶ 1.a and 1.b. It was charged off in June 2018. (GX 3 at 11.) In December 2018, Applicant received an offer to settle this debt for less than the full amount. He accepted the offer and paid the agreed amount in August 2019. (AX 2.g.)

Applicant's cohabitant has been employed by a defense contractor for about five years and recently received a top secret clearance. (Tr. 52-53.) She met Applicant through an online dating service in November 2013, about nine months after Applicant and his wife separated. She testified that they intend to marry but have not yet done so because she does not want her financial assets to be vulnerable to legal actions by his ex-wife. (Tr. 55-56.) They kept their finances separate until the divorce was final. They have now merged their incomes with the goal of resolving all of their debts. (Tr. 68-70.)

Applicant and his cohabitant share the same financial vision and have embraced the Dave Ramsey methodology for resolving their debts. They first tackled their current debts and then moved on to older debts. They paid off several medical bills, the loans on two cars, Applicant's student loans, and Applicant's legal bills. They next began working on credit-card accounts, paying off some and consolidating others. (Tr. 67-68; AX 5.l) Starting in 2013, Applicant has used budget spreadsheets to prioritize the resolution of his debts.

Applicant is generally familiar with the security-clearance process. His most recent SCA was his third. When he submitted it, he did not disclose any of the debts alleged in SOR ¶¶ 1.a-1.g. However, he disclosed the foreclosure of the loan on the jointly-owned townhouse in May 2014, a \$200 fine for contempt of court in May 2014 when he violated the terms of a child-custody order, a court order requiring him to repay his ex-wife \$35,000 from a retirement account, and a court order requiring payment of child support.

Applicant testified that he was confronted with the debt in SOR ¶ 1.a by a security investigator at some time after he submitted his SCA. The record does not reflect when the interview occurred and does not include a written summary of the interview. Applicant testified that he was more concerned with the fact that he omitted it in his SCA rather than the fact that it was delinquent. (Tr. 114.) He also testified that it was a "red flag" when the security investigator also questioned him about the debt alleged in SOR ¶ 1.c, because he had not disclosed it in his SCA. (Tr. 121.)

Applicant testified that he relied on his budgeting worksheets to answer the financial questions in the SCA. The debts in SOR ¶¶ 1.a, 1.b, 1.c, and 1.g were not on his budgeting worksheets because he did not intend to pay them in the near future. His worksheets were used to allocate income toward the high-priority debts he was trying to resolve. (Tr. 122-23.) His personal financial statement dated May 17, 2018 (two days before the date of his SCA) listed the debts alleged in SOR ¶¶ 1.a, 1.b, 1.c, and 1.g as charged off, with no payments scheduled. (AX 3.e.2.) He had been advised by the bankruptcy attorney that collection of these debts was barred by the statute of limitations. His "debt reduction calculator," a worksheet dated August 15, 2018, listed ten debts to be

paid in order of priority. It did not list the debts alleged in SOR ¶¶ 1.a, 1.b, 1.c, and 1.g. (AX 3.e(3).)

The delinquent utility bill alleged in SOR ¶ 1.d was left over from the foreclosure on the rental property in May 2015, and it was not included in Applicant's worksheet prioritizing the debts to be paid. Applicant's ex-wife had been ordered by the divorce court to pay the two medical debts alleged in SOR ¶¶ 1.e and 1.f. The medical debts were not on Applicant's priority list, and Applicant reasonably could have thought that he was not required to disclose them because they were his ex-wife's responsibility. It is not clear why he did not disclose the debt alleged in SOR ¶ 1.g, except that it was the same creditor as alleged in SOR ¶¶ 1.a and 1.b, his bankruptcy lawyer assured him that this creditor would not pursue these debts, and it was not included in the prioritized list of debts in his budget worksheets.

Applicant's performance evaluations for 2015 through 2018 reflect his growth as a project manager, with strong managerial and leadership skills. (AX 4.a-AX 4.i.) His evaluation for 2017 rates his performance as "exceptional" and comments on his expertise and ability to manage and prioritize smartly. His evaluation for 2018 states that he "consistently demonstrates exceptionally sound judgment and the ability to effectively prioritize and balance many competing efforts." It notes that he "takes care of his people and is a respected team player."

The co-founder and current majority owner of the defense contractor for which Applicant works is a retired Navy captain. He testified that he is Applicant's direct supervisor and interacts with him several times a week. He considers Applicant one of the most important program managers in the company. He has found him to be a trustworthy, reliable and responsible employee. Applicant approached him about "negative feedback" on his SCA and told him about the allegations in the SOR. He considers Applicant a "very highly reliable and trustworthy servant of the federal government." (Tr. 24-29.)

The vice-president and co-owner of Applicant's employer, also a retired Navy captain, submitted a statement supporting Applicant's application for a clearance and expressing his high regard for Applicant's character, performance, and integrity. (AX 5.a.) He also testified at the hearing. He considers Applicant a "stellar contractor" whose reputation is "impeccable." (Tr. 35-40.)

The Navy contracting officer representative for the program that Applicant manages testified and submitted a written statement. (AX 5.j.) For the past five years, he has interacted with Applicant almost every day. He believes that Applicant's financial problems were caused mostly by his divorce. He believes that Applicant's failure to disclose his delinquent debts in his SCA was due to his erroneous reliance on spreadsheets that did not list all his delinquent debts. He considers Applicant very trustworthy and believes that his opinion is shared by others involved in Applicant's program. (Tr. 42-49.)

One of the four owners of the company employing Applicant has known him since 2014 and regards him as one of the company's most valuable managers. She has observed his skill in managing multi-million-dollar contracts. She considers him a great leader and mentor. She is aware of the allegations in the SOR and strongly recommends that his security clearance be continued. (AX 5.b.)

Applicant's mother, younger sister, and several former colleagues and long-time friends submitted letters on his behalf. They uniformly admire Applicant for his honesty, integrity, reliability, compassion, technical skills, and devotion to his children. They find Applicant's explanation for not disclosing his debts in his SCA plausible and consistent with the way he organizes problems with spreadsheets. (AX 5.b-5.k.) Applicant's cohabitant submitted a statement describing the contentious nature of the divorce proceedings and expressing her admiration for Applicant's consistency, strength, and integrity. (AX 5.l.)

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 F, 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 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;

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

AG ¶ 20(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.

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

AG ¶ 20(b) is established. Applicant's divorce and his ex-wife's bankruptcy discharge of marital joint debts were conditions largely beyond his control. He acted responsibly by obtaining legal advice about bankruptcy and divorce, maintaining contact with his creditors, and resolving several debts not alleged in the SOR, including a substantial student loan. The debts alleged in SOR ¶¶ 1.a and 1.b are unresolved and Applicant has no plan to resolve them in the near future. However, he intends to resolve them when he is financially able to do so. The adjudicative guidelines do not require that an individual make payments on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant's system of spreadsheets demonstrates a well-conceived, methodical plan to resolve all his debts, and he has taken significant steps to implement it.

AG ¶ 20(c) is established. Applicant obtained legal advice and has incorporated that advice in his long-range plan to regain financial stability. His continued contact with the creditor for the debts alleged in SOR ¶¶ 1.a, 1.b, and 1.g and his resolution of the debts alleged in SOR ¶¶ 1.c-1.g are "clear indications" that his problems are being resolved.

AG ¶ 20(d) is not established for the debts alleged in SOR ¶¶ 1.a and 1.b. It is established for the debts alleged in SOR ¶¶ 1.c-1.g, which have been resolved

AG ¶ 20(e) is not established. Although the April 2019 credit report reflects that the utility bill alleged in SOR ¶ 1.d is disputed, it does not reflect the basis of the dispute, and any dispute has been mooted by full payment of the amount claimed.

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 under this guideline 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 was not a neophyte when he submitted his May 2018 SCA, having done so twice before. He meticulously disclosed several derogatory facts, including a mortgage foreclosure and being fined for contempt of court. He knew immediately that there was a

“red flag” when a security investigator asked him about a debt that he had not disclosed in his SCA, and he was more concerned with the omission than the fact that the debt was delinquent. As a cost analyst, he lives in a world of financial spreadsheets, and he used that methodology to gain control of his financial situation. He was negligent when he prepared his SCA, but negligence falls short of deliberate falsification. He was not trying to conceal his financial problems. To the contrary, he notified his security officer in August 2015 that he had financial problems and was considering bankruptcy. I found his explanation for not disclosing the debts in his SCA plausible and credible. I conclude that Applicant has refuted the allegation in SOR ¶ 2.a, and the disqualifying condition in AG ¶ 16(a) is not established. No other disqualifying conditions under Guideline E are established.

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 F and E in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment. Applicant was candid, sincere, and credible at the hearing. He has worked for defense contractors and as a civilian employee of the Navy for almost 20 years. He has held a security clearance since 2001, apparently without incident. In spite of the emotional stress of a bitterly contested divorce, he has performed well in his job and has earned the respect of colleagues and supervisors, several whom are retired senior officers in the U.S. Navy. His supervisors have reviewed the SOR and were unwavering in their support for Applicant at the hearing. After weighing the disqualifying and mitigating conditions under Guidelines F and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has refuted the allegation that he deliberately falsified his SCA, and he has mitigated the security concerns raised by his delinquent debts.

Formal Findings

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

Paragraph 1, Guideline F (Financial Considerations): FOR APPLICANT

Subparagraphs 1.a-1.g: For Applicant

Paragraph 2, Guideline E (Personal Conduct): FOR APPLICANT

Subparagraph 2.a: For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to continue Applicant's eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman
Administrative Judge