



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



In the matter of:)	
)	
)	ISCR Case No. 20-02719
)	
Applicant for Security Clearance)	

Appearances

For Government: Raashid Williams, Esq., Department Counsel
 For Applicant: Alan V. Edmunds, Esq.
 04/12/2022

Decision

GARCIA, Candace Le'i, Administrative Judge:

Applicant failed to mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On January 4, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). The action was taken 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) implemented by DOD on June 8, 2017.

Applicant responded to the SOR (Answer) on January 19, 2021, and requested a hearing before an administrative judge. The case was assigned to me on March 18, 2021. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on March 26, 2021, scheduling the hearing for April 29, 2021. I convened the hearing as scheduled. At the hearing, Applicant requested a continuance. He was unprepared to proceed because he did not understand the nature of the hearing and needed time to consult with an attorney. I granted Applicant's request without objection from Department Counsel. DOHA received the transcript of the April 29, 2021 hearing (Tr. 1) on May 10, 2021. On June 11, 2021, DOHA issued a notice of Defense Collaboration Services (DCS) video

teleconference (VTC) hearing, re-scheduling the hearing for July 8, 2021. I convened the DCS VTC hearing as re-scheduled. DOHA received the transcript of the June 11, 2021 DCS VTC hearing (Tr. 2) on July 16, 2021. (Tr. 1 at 1-23; Tr. 2 at 1-95)

At the DCS VTC hearing, Government Exhibits (GE) 1 through 5 and Applicant's Exhibits (AE) A through M were admitted without objection. Applicant testified; he did not call any witnesses. At Applicant's request, I kept the record open until July 29, 2021, to allow Applicant to submit additional documentation. Applicant did not submit any additional documentation. (Tr. 2 at 5, 9-15, 86-87)

Findings of Fact

Applicant admitted all of the SOR allegations. He is 52 years old. He married in 1994, divorced in 2002, and he has two adult children. He graduated from high school in 1987, and he earned a bachelor's degree in 1991. He previously resided in a condominium that he purchased in state A (Condo 1) from 2004 to 2014. (Answer; Tr. 1 at 9-10; Tr. 2 at 17-18, 35-37, 43, 47, 55; GE 1, 2; AE A, F)

Applicant was first granted a security clearance in approximately 2008. He worked for previous DOD contractors from around 2002 to 2016. Since then and as of the date of the hearing, he worked as an assistant administrator for his employer, a DOD contractor. (Tr. 1 at 6, 9-10; Tr. 2 at 5-6, 16, 54; GE 1; AE E)

The SOR alleged that Applicant had 15 delinquent debts, comprised of 5 delinquent consumer accounts totaling approximately \$149,390 (SOR ¶¶ 1.a, 1.f, 1.i, 1.k, 1.o), and 10 delinquent mortgages culminating in property foreclosures in approximately 2014, 2015, and 2016 (SOR ¶¶ 1.b-1.e, 1.g-1.h, 1.j, 1.l-1.n). The SOR allegations are established by Applicant's admissions in his Answer, in his 2017 security clearance application (SCA), during his two interviews with a background investigator in 2018, in his 2020 response to interrogatories, and by credit bureau reports from 2017, 2019, and 2020. Applicant testified that he admitted the SOR allegations because he thought he would get his security clearance renewed. He testified that he did not believe the SOR was correct, stating, "I don't see account numbers. I don't see property addresses." He also testified that he could not recall his 2018 interviews with a background investigator, and that any admissions he made during the interviews or in his 2020 response to interrogatories he did because he thought he would get his clearance renewed. (Answer; GE 1-5; Tr. 2 at 18-19, 47-48, 65-68, 75-76)

All of the SOR debts revolve around properties purchased by Applicant. In 2004, he purchased for cash Condo 1, as stated above, in which he resided until 2014. He later obtained a first mortgage and a home equity line of credit (HELOC) through Bank 1 on Condo 1, as further discussed below. In 2008, he purchased five investment properties consisting of the following: (1) two condominiums in state A (Condo 2 and Condo 3); (2) a townhome in state A (TH); and (3) two homes in state B (Home 1 and Home 2). His tax accountant since 1988 advised him against buying the investment properties, but he believed that state A would not be affected by the economic downturn that had already begun in late 2007, and he thought he would be able to handle the two smaller homes in

state B. In purchasing his five investment properties, he opened five additional first mortgages and a second HELOC; he already had a first mortgage and a HELOC with Bank 1 for Condo 1, as above discussed. He had “. . . a total of eight loans around 2008,” consisting of six mortgages and two HELOCs. His loans totaled approximately \$500,000. He could not recall the details surrounding these loans, but recalled that he put 20% down on each of the properties by using a portion of the \$500,000 he inherited after his parents’ death. (Tr. 2 at 35-43, 47-5, 51, 54-69, 75-85; GE 1, 2)

Applicant testified that from approximately 2008 to 2014, he was somewhat able to use the rental income from his investment properties to pay the associated expenses. He stated that he did not fully understand the extent of investment real estate expenses and acknowledged, “I didn’t know what I was doing.” He stated that his investment properties were rented at times and unrented at other times, and he was unsuccessful in getting his tenants to consistently pay their rent. He testified that his tenants refused to pay their rent when the economy crashed in 2008, so he used his money to pay the mortgages on his investment properties; he hired attorneys to evict his tenants; he used his money to make necessary repairs to the properties; and he obtained new tenants. He could not recall the specific details surrounding each property. (Tr. 2 at 35-43, 47-5, 51, 54-69, 75-85; GE 1, 2)

By 2009, Applicant realized he had made a mistake. He again consulted with his tax accountant, who advised him to get rid of his investment properties. He chose not to do so because he continued to believe he could maintain them. He consulted with his tax accountant every year subsequent, and he repeatedly received the same advice. By 2014, Applicant exhausted all of his inheritance. He did not have any money set aside, other than his retirement accounts, and he decided not to use his retirement money to pay his mortgages. He last consulted with his tax accountant in 2014, and he was advised to contact the banks and work something out. He testified that he was “emotionally devastated that I was so wrong on the real estate market, but I bought the wrong properties at the wrong time and I wasn’t thinking clearly.” (Tr. 2 at 35-43, 47-5, 51, 54-69, 75-85; GE 1, 2)

Applicant chose to walk away from his real estate investments. He stopped paying his mortgages on all of his properties in 2014 and his properties were foreclosed. He did not contact his creditors to seek a loan modification on any of his mortgages; he did not attempt to sell his properties; and he did not seek any legal advice. He testified that when he walked away from his properties, he was “under the assumption that I would have seven years of bad credit and that my credit would get better after the loans would be charged off.” He acknowledged that the first time he attempted to contact any of the creditors for his SOR debts was in June 2021. He testified that “if it’s not on my credit [report], I think I’m okay. That’s my belief. That was my understanding in 2014.” (Tr. 2 at 35-43, 47-5, 51, 54-69, 75-85; GE 1, 2)

Applicant also testified that in addition to trying to maintain the mortgage payments on all of his properties, he also paid for both of his children’s college tuition through his retirement annuity from approximately 2012 through 2018. He also testified that he was paying approximately \$2,237 monthly in child support for his youngest child until May

2018. He acknowledged that he could not handle his debts. (Tr. 2 at 35-43, 47-5, 51, 54-69, 75-85; GE 1, 2)

SOR ¶¶ 1.a, 1.e, and 1.m are for Condo 1. SOR ¶ 1.a is for Applicant's Bank 1 HELOC; SOR ¶ 1.e is for Applicant's Mortgage Servicer 1 mortgage; and SOR ¶ 1.m is for Applicant's Mortgage Servicer 2 HELOC. The 2017 credit bureau report reflects that: (1) Applicant obtained a mortgage with Bank 1 of approximately \$150,000 in 2006; (2) Applicant's Bank 1 mortgage was reported as delinquent in 2014 and transferred to another lender; (3) Applicant obtained a mortgage with Mortgage Servicer 1 of approximately \$150,000 in 2006; and (4) Mortgage Servicer 1 foreclosed on Condo 1 in 2017. The 2020 credit bureau report reflects a zero balance for Applicant's Bank 1 mortgage, but notes that its status is delinquent and the account has been transferred or sold. That credit bureau report does not report Applicant's Mortgage Servicer 1 mortgage. Neither the Bank 1 nor the Mortgage Servicer 1 mortgages are reported on the 2021 credit bureau report. (Tr. 2 at 19-20, 37, 34-47, 65-68; GE 1, 2, 3, 4, 5; AE G)

The 2017 credit bureau report also reflects that: (1) Applicant obtained a HELOC with Bank 1 of approximately \$57,652 in 2007; (2) Applicant's HELOC was reported as delinquent in 2014; and (3) Applicant's HELOC was placed for collection by Mortgage Servicer 2 in the approximate amount of \$57,854. The 2019 credit bureau report reflects that Applicant's Bank 1 HELOC was \$18,046 past due with a total outstanding balance of \$61,581. Applicant's Bank 1 HELOC is not reported on the 2020 or 2021 credit bureau reports. (Tr. 2 at 19-20, 37, 34-47, 65-68; GE 1, 2, 3, 4, 5; AE G)

Applicant testified:

I believe [SOR ¶ 1.a] was a mortgage but that mortgage was for \$150,000 and there's no way I paid it down to [\$61,000]. So, I think [SOR ¶ 1.a] is wrong. I think [SOR ¶ 1.a] should be the mortgage [on his residence in state A] but that's clearly not . . . That could be the HELOC but I don't know.

He also testified that he was unaware which property was associated with his Mortgage Servicer 1 mortgage. However, he disclosed in his SCA that his Mortgage Servicer 1 mortgage was associated with Condo 1. He also discussed during his second interview with a background investigator in 2018 (Interview 2), his Bank 1 and Mortgage Servicer 1 mortgages on Condo 1, as well as his Bank 1 HELOC on Condo 1, placed for collection by Mortgage Servicer 2. (Tr. 2 at 19-20, 37, 34-47, 65-68; GE 1, 2, 3, 4, 5; AE G)

Applicant testified that he telephonically contacted Bank 1 in approximately June 2021. He testified that Bank 1 told him that it had a record of him having a previous loan with them, but there was no indication of a delinquency due to the age of the loan. He also testified that he unsuccessfully attempted to contact Mortgage Servicer 1, and unsuccessfully attempted to contact Mortgage Servicer 2 in June 2021. He testified that he did not know any further details about these debts; he could not recall whether he received an IRS Form 1099 (1099) for his Bank 1 or Mortgage Servicer 1 mortgages; if he did, he would have given any 1099s to his tax preparer; and, he did not believe any of these debts were reported on his 2021 credit bureau report. He provided documentation

reflecting that he received an IRS Form 1099-A (1099-A) from Mortgage Servicer 1 in February 2016, which reflects a fair market value of his property of \$149,999 and a \$125,802 outstanding principal balance. While the 1099-A also noted that Applicant was personally liable for repayment of the debt, Applicant did not have a deficiency balance on his Mortgage Servicer 1 mortgage. (Tr. 2 at 26-27; GE 2, 3, 4; AE J)

SOR ¶¶ 1.b, 1.l and 1.o are for Home 1. SOR ¶ 1.b is for Applicant's Bank 2 mortgage, as discussed by Applicant during Interview 2. SOR ¶ 1.l is for Applicant's Bank 3 mortgage, as disclosed and discussed by Applicant in his SCA and during Interview 2. SOR ¶ 1.o is for Applicant's Mortgage Servicer 3 mortgage, placed for collection by Debt Collector in the approximate amount \$49,556, as discussed by Applicant during Interviews 1 and 2. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

The 2017 and 2019 credit bureau reports reflect, in conjunction with Applicant's disclosures in his SCA and during Interviews 1 and 2, the following for Home 1: (1) Applicant obtained a mortgage with Bank 2 for approximately \$47,100 in 2008; (2) this mortgage was reported as delinquent in 2014 and transferred to another lender; (3) Bank 3 foreclosed on Home 1 in 2014; and (4) Debt Collector placed for collection Applicant's mortgage with Mortgage Servicer 3, in the approximate amount of \$49,556, in 2016. The 2020 and 2021 credit bureau reports do not report Applicant's mortgages with Bank 2, Bank 3, or Debt Collector for Mortgage Servicer 3. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

SOR ¶¶ 1.c, 1.d, and 1.n are for Home 2. SOR ¶ 1.c is for Applicant's Bank 2 mortgage, as discussed by Applicant during Interview 2. SOR ¶ 1.d is for Applicant's Mortgage Servicer 5 mortgage, as reported on the 2019 credit bureau report. SOR ¶ 1.n is for Applicant's Mortgage Servicer 4 mortgage, also as discussed by Applicant during Interview 2. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

The 2017 and 2019 credit bureau reports reflect, in conjunction with Applicant's disclosures in his SCA and during Interviews 1 and 2, the following for Home 2: (1) Applicant obtained a mortgage with Bank 2 for approximately \$29,625 in 2008; (2) this mortgage was reported as delinquent in 2014 and transferred to another lender; (3) Mortgage Servicer 4 initiated foreclosure proceedings on Home 2 in 2016; and (4) Mortgage Servicer 5 foreclosed on Home 2 in 2016. The 2020 and 2021 credit bureau reports do not report Applicant's mortgages with Bank 2, Mortgage Servicer 4, or Mortgage Servicer 5. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

SOR ¶¶ 1.j and 1.k are for Condo 2. SOR ¶ 1.j is for Applicant's Bank 2 mortgage, as discussed by Applicant during Interview 2. SOR ¶ 1.k is for Applicant's Bank 4 mortgage, placed for collection by Debt Collector in the approximate amount of \$44,116, also as discussed by Applicant during Interview 2. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

The 2017 and 2019 credit bureau reports reflect, in conjunction with Applicant's disclosures in his SCA and during Interviews 1 and 2, the following for Condo 2: (1) Applicant obtained a mortgage with Bank 2 for approximately \$157,500 in 2008; (2) Bank

2 foreclosed on Condo 2 in 2014; and (3) Debt Collector placed for collection in 2017, a \$44,116 loan obtained by Applicant in 2014 with Bank 4. The 2019 credit bureau report reflects that Applicant's outstanding balance with Debt Collector for Bank 4 was \$37,718. The 2020 and 2021 credit bureau reports do not report Applicant's mortgages with Bank 2 or Debt Collector for Bank 4. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

Applicant testified that although he admitted these allegations, he was unsure why he had three different Bank 2 mortgages. He acknowledged that he became delinquent on a Bank 2 mortgage and he had a property foreclosed in 2014, but he was unsure whether the foreclosed property was associated with any of the three Bank 2 mortgages. He was aware that these Bank 2 mortgages had been reported on a credit bureau report, but he testified that he did not have any outstanding debts with Bank 2 as of the date of the hearing. He testified that he telephonically contacted Bank 2 in June 2021 and Bank 2 told him that while he once had a loan with them, it could not provide him with any further details. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

Applicant testified that he could not recall which property was associated with his Bank 3 mortgage, and he stated that Bank 3 had no record of this account. He also testified that he did not know the details about his loan with Bank 4, placed for collection by Debt Collector, to include whether it was attached to any of his foreclosed properties. He also testified that he did not know which property was associated with his mortgage with Debt Collector for Mortgage Servicer 3, to include the balance due at foreclosure or whether the reported outstanding balance was accurate; Debt Collector failed to send his requested outstanding balance when he contacted this creditor in June 2021; and he did not follow up with this creditor. He also testified that he could not recall which property was associated with his Mortgage Servicer 4 mortgage, and he stated that Mortgage Servicer 4 did not have any record of this debt when he contacted Mortgage Servicer 4 in June 2021. He acknowledged that he had a property foreclosed in 2016, but he was unsure whether it was associated with a mortgage with Mortgage Servicer 5. He testified that he telephonically contacted Mortgage Servicer 5 in June 2021 and Mortgage Servicer 5 told him that while he once had a loan with them, it could not provide him with any further details. (Tr. 2 at 20-26, 33-35, 44-47, 52-54, 63-68; GE 2, 3, 4; AE H, I)

Applicant also testified that he could not recall whether he received a 1099 for any of his mortgages with Bank 2, Bank 3, Debt Collector for Bank 4, Debt Collector for Mortgage Servicer 3, Mortgage Servicer 4, or Mortgage Servicer 5. He stated that if he did, he would have given them to his tax preparer. He stated that when he attempted to obtain his 1099s from his tax preparer, his tax preparer told him that they had been shredded. He testified that he contacted Bank 2 and requested a copy of any 1099s they sent him, but the creditor did not do so. Documentation provided by Applicant reflects that Applicant and Bank 2 corresponded by email regarding his mortgages for Home 1 and Home 2 in June 2021. The emails reflect that Bank 2 provided Applicant with documentation concerning both mortgages in attachments to its emails; however, Applicant did not provide the referenced attachments at hearing. (Tr. 2 at 20-26, 33-35, 44-45, 52-54, 63-68; GE 2, 3, 4; AE H, I)

SOR ¶¶ 1.f and 1.g are for TH. SOR ¶ 1.f is for Applicant's Bank 5 charged-off HELOC, as discussed by Applicant during Interview 2. The 2017 credit bureau report reflects that Applicant obtained this Bank 5 HELOC in 2007 and Bank 5 charged off the HELOC in 2017 for \$34,999. This charged-off debt continued to be reported on the 2019, 2020, and 2021 credit bureau reports. SOR ¶ 1.g is for Applicant's Bank 5 mortgage, as disclosed and discussed by Applicant in his SCA and during Interview 2. The 2017 credit bureau report reflects that Applicant obtained this Bank 5 mortgage for approximately \$152,000 in 2006, and Bank 5 foreclosed on TH in 2015. The foreclosed status of Applicant's Bank 5 mortgage continued to be reported on the 2019, 2020, and 2021 credit bureau reports. (Tr. 2 at 24-30, 53, 63-68; GE 2, 3, 4, 5; AE G, K, L)

SOR ¶¶ 1.h and 1.i are for Condo 3. SOR ¶ 1.h is for Applicant's Bank 5 mortgage, as disclosed and discussed by Applicant in his SCA and during Interview 2. The 2017 credit bureau report reflects that Applicant obtained this Bank 5 mortgage for approximately \$114,825 in 2007, and Bank 5 foreclosed on Condo 3 in 2014. The foreclosed status of this Bank 5 mortgage continued to be reported on the 2019 credit bureau report; it was not reported on the 2020 or 2021 credit bureau reports. SOR ¶ 1.i is for Applicant's mortgage with Mortgage Servicer 3, placed for collection by Debt Collector for \$25,140 in 2017, as discussed by Applicant during Interview 2. The 2017 credit bureau report reflects that Debt Collector placed this loan, originally obtained by Applicant with Mortgage Servicer 3, in collection for \$25,140 in 2017. This loan with Debt Collector continued to be reported on the 2019 credit bureau report; it was not reported on the 2020 or 2021 credit bureau reports. (Tr. 2 at 24-30, 53, 63-68; GE 2, 3, 4, 5; AE G, K, L)

Applicant acknowledged he had two properties foreclosed in 2014 and 2015 that he financed through three loans with Bank 5, but he testified that he could not identify what SOR ¶ 1.f was for, and he could not distinguish SOR ¶ 1.f from SOR ¶¶ 1.g and 1.h. He testified that he contacted Bank 5; Bank 5 gave him two 1099s; he provided the 1099s to his tax accountant; and he believed his tax accountant included these 1099s on his relevant income tax returns. Documentation provided by Applicant reflects that he contacted Bank 5 regarding his mortgages for TH and Condo 3 in June 2021. Bank 5 provided him with a substitute Form 1099-A in January 2016 for TH mortgage, reflecting a \$144,500 fair market value of his property and a \$139,923 balance of outstanding principal. While the substitute Form 1099-A also noted that Applicant was personally liable for repayment of the debt, Applicant did not have a deficiency balance on his Bank 5 TH mortgage. Bank 5 also provided him with a substitute Form 1099-A in May 2015 for Condo 3 mortgage, reflecting a \$94,251 fair market value of his property and a \$114,775 balance of outstanding principal. The substitute Form 1099-A also noted that Applicant was personally liable for repayment of the debt, and Applicant had a \$20,524 deficiency balance on his Bank 5 Condo 3 mortgage. (Tr. 2 at 24-30, 53, 63-68; GE 2, 3, 4, 5; AE G, K, L)

Applicant testified that he did not know anything about the mortgage with Mortgage Servicer 3, placed for collection by Debt Collector (SOR ¶ 1.i). He stated that this debt was not reported on his 2021 credit bureau report. He testified that he spoke with Debt Collector and the creditor identified an account number, an outstanding balance, and a

potential payment arrangement; however, the creditor could not identify which property was associated with this loan or provide an accounting to substantiate the reported outstanding balance. (Tr. 2 at 31-33, 47, 65-68, 78-80; GE 2, 3, 4; AE G)

As of the date of the DCS VTC hearing, Applicant earned \$70,000 annually. He moved to state C for a lower cost of living, where he pays \$750 monthly in rent. He testified that he is current on his expenses, to include his car loan and four credit cards, and he attempts to live by a budget. He testified that he has approximately \$600,000 in his retirement accounts. He testified that with his tax preparer's help, since 1988, he is current on his federal and state income tax filings, and he does not have any outstanding taxes. He testified that his 2021 credit bureau report did not report any of the SOR debts, he worked hard to get his credit in good standing, and he had a credit rating of 700 to 730. He received financial counseling in June 2021. He stated that he no longer owned any investment properties, as he learned his lesson. He believed that his mistakes of the past should not be held against him. He traveled to Canada for pleasure four times in 2016 and again in 2018. Letters of support from a lifelong friend, his team lead, several co-workers, and his pastor attested to Applicant's professionalism, reliability, and trustworthiness. (Tr. 2 at 16, 22-23, 31-32, 48, 50, 52, 54, 69-74, 80, 85-86; GE 1, 2; AE B, C, D, G, M)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information. Section 7 of Exec. Or. 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations 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. 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 . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and

- (c) a history of not meeting financial obligations.

Applicant was unable to pay his debts. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c).

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

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

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

(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;

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

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

The economic downturn from 2007 to 2009 were conditions beyond Applicant's control that partially contributed to his financial problems. The first prong of AG ¶ 20(b) only partially applies. For the full application of AG ¶ 20(b), he must provide evidence that he acted responsibly under his circumstances. He provided documentation reflecting that he does not have a deficiency balance for his mortgages in SOR ¶¶ 1.e and 1.g. The record evidence also demonstrates the following: (1) Applicant's HELOC for Condo 1 was no longer held by Bank 1 (SOR ¶ 1.a), having been placed for collection by MS 2; (2) Applicant's Bank 2 mortgage for Home 1 (SOR ¶ 1.b) was transferred to Bank 3, who foreclosed on Home 1; and (3) Applicant's mortgage for Home 2, with Bank 2 (SOR ¶ 1.c) and then MS 4 (SOR ¶ 1.n), was transferred to MS 5, who foreclosed on Home 2. I find that ¶ 20(d) applies to SOR ¶¶ 1.a, 1.b, 1.c, 1.e, 1.g, and 1.n.

Applicant sought his tax preparer's advice regarding all of his properties on multiple occasions, but he repeatedly chose to ignore it. He chose to stop paying all of his mortgages and allowed his properties to be foreclosed. He did not contact his creditors to attempt to seek loan modifications, he did not attempt to sell his properties, he did not seek any legal advice, and he has done nothing to try to resolve any of the related outstanding balances. After he received the SOR, he received credit counseling and he contacted some of his creditors for the first time, in June 2021. By his own admission, he has simply waited for these delinquencies to fall off his credit report. I find that such behavior did not happen so long ago, was not infrequent, and did not occur under such circumstances that are unlikely to recur. It continues to cast doubt on his current reliability, trustworthiness, and judgment. I find that AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) are not established as to SOR ¶¶ 1.d, 1.f, 1.h, 1.i, 1.j, 1.k, 1.l, 1.m, 1.o.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F in my whole-person analysis. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant failed to mitigate the financial considerations security concerns.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a, 1.b, 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant
Subparagraphs 1.h, 1.i, 1.j, 1.k, 1.l, 1.m:	Against Applicant
Subparagraph 1.n:	For Applicant
Subparagraph 1.o:	Against Applicant

Conclusion

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

Candace Le'i Garcia
Administrative Judge