



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



In the matter of:)
)
) ISCR Case No. 20-03355
)
Applicant for Security Clearance)

Appearances

For Government: Andrea M. Corrales, Esq., Department Counsel
For Applicant: *Pro se*

08/22/2022

Decision

HARVEY, Mark, Administrative Judge:

Applicant failed to make sufficient progress addressing delinquent debts listed on the statement of reasons (SOR). Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On June 29, 2018, Applicant completed and signed an Electronic Questionnaires for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On January 12, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued an SOR to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline F. (HE 2)

Applicant provided an undated response to the SOR, and he requested a hearing. (HE 3) On June 1, 2021, Department Counsel was ready to proceed. Processing of the case was delayed due to the COVID-19 pandemic. On May 3, 2022, the case was assigned to me. On June 14, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for July 14, 2022. (HE 1) The hearing was held as scheduled.

Department Counsel offered four exhibits into evidence, and Applicant offered one exhibit into evidence. (Transcript (Tr.) 17-19; GE 1-GE 4; Applicant Exhibit (AE) A) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 18-19) On July 25, 2022, DOHA received a transcript of the hearing. The record was held open until August 17, 2022, to enable Applicant to provide additional documentation. (Tr. 67, 69) Five post-hearing documents were received and admitted into evidence without objection. (AE B-AE F)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted the allegations in SOR ¶¶ 1.a, 1.b, 1.c, 1.e, and 1.h, and he denied the remaining SOR allegations. (HE 3) He also provided mitigating information. (*Id.*) His admissions are accepted as findings of fact.

Applicant is a 48-year-old logistics management analyst, working for the property book office for a DOD contractor since March 2021. (Tr. 6, 9, 21) He has been at an overseas location since May of 2021. (Tr. 4, 6, 20) In 1992, he graduated from high school, and he has not attended college. (Tr. 6) He honorably served on active duty in the Army from 1992 to 1997, and in the Army Reserve from 2010 to 2019. (Tr. 7) He was a sergeant (E-5) when he left the Army Reserve. (Tr. 7) His military occupational specialty (MOS) on active duty was M1A1 Abrams Armor Crewman (19K) and his MOS in the Army Reserve was unit supply specialist (92Y). (Tr. 8) He has periodically held a security clearance since 1995. (Tr. 24) There is no evidence of any security violations.

Applicant was married to his first wife from 1999 to 2004, and he married the second time in 2013. (Tr. 8) He has separated from his second wife, and on February 1, 2022, he filed for divorce. (Tr. 8, 20) He does not have any children; however, he has three step-children. (Tr. 8, 22) He married his second spouse in Germany, and he is sponsoring her and her children for U.S. citizenship (Green card). (Tr. 22-23) His oldest stepchild is in the U.S. Air Force. (Tr. 22) In 2019, his spouse obtained employment in pest control in the United States at an annual salary of \$36,000 plus commissions. (Tr. 39-40) In 2020, she obtained a real estate license; however, she makes very little money because the area is "saturated with real estate agents." (Tr. 40) He estimated he will need to pay his spouse about \$4,500 monthly in spousal and child support after the divorce. (Tr. 42)

Financial Considerations

In 2014, Applicant's net annual income as a government contractor working in Germany was \$54,000. (Tr. 24) His spouse worked in a convenience store stocking shelves and later in a gas station in Germany. (Tr. 26) She received some financial benefits from the German Government for herself and children and some child support for her youngest child. (Tr. 26)

In May 2015, Applicant moved his family from Germany to the United States. (Tr. 27) Germany stopped providing his spouse financial support; she stopped receiving child support; and she was unable to immediately obtain employment in the United States. (Tr. 29) From May 2015 through July 2016, he worked as a supply supervisor in Middle Eastern Country (MEC) 1. (Tr. 28) His base pay in MEC 1 was about \$90,000; however, his housing allowance was substantially less than he believed it would be when he accepted the employment. (Tr. 29) Applicant and his family accumulated debt during May 2015 through July 2016. (Tr. 29)

Applicant was unemployed from July 2016 to October 2016 when he obtained employment in MEC 2. (Tr. 30-31) Starting in October 2016, his annual salary in MEC2 was about \$102,000, which included his cost of living allowance (COLA). (Tr. 31-32) In March or April 2017, a new company took over the contract and reduced his hourly pay to \$15 and eliminated his COLA. (Tr. 31-32) From July through December 2017, he worked in South Central Asian Country (SCAC) for an annual pay of \$127,000. (Tr. 32-33) He did not return from leave on time, and he was terminated from his employment in SCAC for job abandonment. (Tr. 34) Applicant and his employer disagreed on when he was supposed to return from leave. (Tr. 34)

Applicant was unemployed from December 2017 through February 2018. (Tr. 34) From February of 2018 through June of 2018, he worked as a warehouse selector for several companies and earned about \$17 an hour. (Tr. 34) He was able to work overtime, and his annual pay was about \$52,000. (Tr. 34-35) From June 2018 through February 2020, he worked in SCAC as a property book officer, and his annual salary was \$147,000. (Tr. 35-36) From March 2020 to May 2020, he earned \$13 an hour doing home repairs in the United States. (Tr. 36) From May 2020 through March 2021, he was employed doing inventories at various bases around the world for an annual pay of \$70,000. (Tr. 36-37) In March 2021, he began his current employment, and his annual salary increased to \$115,000, and then in May 2021, his salary increased to \$149,000 when he was deployed overseas. (Tr. 37, 63-64)

Applicant's current gross annual income including COLA is \$149,000. (Tr. 21-22, 38) He also receives \$801 monthly because he has a 40 percent disability rating from the Department of Veterans Affairs (VA). (Tr. 38) He has less than \$1,000 in his checking and savings accounts. (Tr. 41) He has \$6,300 in a 401(k) account. (Tr. 41)

Applicant and his spouse purchased a house in the United States, and his mother and step-father moved into the home with Applicant's spouse and step-children. (Tr. 49)

His mother and step-father were paying rent. (Tr. 49) Applicant's mother got sick, his step-father had to retire, and they moved into their own place in 2020. (Tr. 49)

In 2018, Applicant employed a credit service company to assist with debts, and he paid a total of \$1,400 to the company. (Tr. 47) The credit service company disputed debts, and Applicant was dissatisfied with their services. (Tr. 47-48) At his hearing, Applicant said the closing for the sale of his house in the United States would occur in the near future, and he and his spouse planned to use the profits of about \$64,000 to pay off their car loans and miscellaneous debts. (Tr. 42-44)

On August 11, 2022, Applicant provided some bills and checks issued from the settlement of his mortgage on July 21, 2022: (1) \$2,221 was paid to a non-SOR collection company (vacation club) to address a \$4,697 debt (AE B at 1-2); (2) \$29,538 was paid to address a non-SOR, time-share debt originating in February 2019 in the amount of \$28,429 (AE B at 3-7); \$13,890 was paid to address a non-SOR debt that was in current status (AE B at 8; GE 2 at 4); and (4) \$3,112 was paid to address a non-SOR bank debt. (AE B at 11-12) None of the payments were made to address SOR debts.

The January 12, 2021 SOR alleges nine delinquent debts totaling \$75,798 as follows:

SOR ¶ 1.a alleges a \$19,695 charged-off debt. Applicant was unable to make his car payment after his pay was significantly reduced, and his vehicle was repossessed in 2017. (Tr. 50) In 2018 or 2019, he tried to discuss the debt with the creditor; however, the creditor was unwilling to discuss the debt with him because it was charged off. (Tr. 51) On August 15, 2022, Applicant said in an email that he contacted the creditor "to discuss making payments once [his] divorce is final" and he knows what his monthly payments to his former spouse will be. (AE F)

SOR ¶ 1.b alleges a \$17,423 charged-off credit union debt. In 2015, Applicant obtained a personal loan, and in August 2015, he stopped making payments on it. (Tr. 51-52) He said "[t]he bank where we were going to make our payments, that bank changed and they would no longer accept the payments. And I, at the time, was not able to make any payments online, and then I just ignored it." (Tr. 52) On August 4, 2022, Applicant contacted the creditor, and the creditor agreed to a \$100 monthly payment plan with the first payment due on August 8, 2022. (AE E)

SOR ¶ 1.c alleges a delinquent debt related to a repossessed vehicle for \$11,768. Applicant said the balance was about \$11,000 at the time the vehicle was repossessed. In 2017 or 2018, the vehicle was sold at auction, and the creditor advised him in a letter that the balance after the sale was \$1,600. (Tr. 53) Later he contacted the creditor about setting up a payment plan, and the creditor said "well, it's been charged off, there's nothing we can do about it." (Tr. 53-54) Applicant did not make any payments to address this debt. (Tr. 54) On August 15, 2022, Applicant said in an email that he intended to contact the creditor to discuss making payments once his divorce is final and he knows what his monthly payments to his former spouse will be. (AE F)

SOR ¶ 1.d alleges an insurance account placed for collection for \$472. The correct amount of the debt was \$267. (Tr. 55) Applicant said he paid the debt; however, he did not contact the creditor before his hearing to verify the debt was paid. (Tr. 55-56) On August 8, 2022, the creditor wrote the debt was paid in full. (AE C)

SOR ¶ 1.e alleges a charged-off personal loan for \$16,455. The debts in SOR ¶¶ 1.b and 1.e are owed to the same creditor. In August 2014, Applicant obtained this personal loan, and in 2016, this debt was charged off. (Tr. 57; GE 4 at 3) He did not make any payments to address this debt. (Tr. 57) On August 15, 2022, Applicant said he had a payment agreement with the creditor, and he cited to the agreement he had with creditor that related to SOR ¶ 1.b. (AE E; AE F)

SOR ¶ 1.f alleges a charged-off account for \$1,675. The debt was charged off in January 2016, and Applicant said he paid this debt in 2016. (Tr. 57-58; SOR response; GE 4 at 3) The debt does not appear on his August 28, 2020 and his July 6, 2022 credit reports. (GE 2; GE 3)

SOR ¶ 1.g alleges a collection account for \$7,493. This debt related to rental of an apartment or house. (Tr. 58) Applicant withheld rent until repairs were made. He provided a letter from the collection agent indicating on May 31, 2019, he settled the debt with a payment of \$5,250. (Tr. 58-59; AE A)

SOR ¶ 1.h alleges a utility account placed for collection for \$643. Applicant said he established a payment plan and paid this debt. (Tr. 59-60; SOR response) He said his home currently has a utility account with this SOR creditor. (Tr. 60) His August 13, 2018 credit report shows this collection account. (GE 4) His August 28, 2020 and July 6, 2022 credit reports do not include this account. (GE 2; GE 3)

SOR ¶ 1.i alleges a medical account placed for collection for \$174. Applicant said he had a medical issue in Germany, and the debt was paid. (Tr. 60-61) His August 13, 2018 credit report shows this collection account. (GE 4) His August 28, 2020 and July 6, 2022 credit reports do not include this account. (GE 2; GE 3)

Applicant's mortgage account is a non-SOR debt. He said his monthly mortgage payment was \$2,900. (Tr. 42-43) His July 7, 2022 credit report indicates he obtained a \$429,000 mortgage in 2019, his last payment was in February 2020, and his current balance is \$445,600. (GE 2 at 5) He said his mortgage started to go into foreclosure; however, the foreclosure process stopped because of the COVID-19 pandemic. (Tr. 62) He did not make any mortgage payments after May 2020, which may have been 16 months or possibly until the closing on his home sale in July 2022. (Tr. 62, 64) He said his wife used the extra funds not used to pay the mortgage to pay utilities and make some home repairs. (Tr. 64)

Applicant did not contact any of the creditors after he received the January 12, 2021 SOR until the date of his hearing on July 14, 2022, because he felt stress. (Tr. 61-62) He did not want to make any promises about making payments that he would not or could not keep. (Tr. 62) He said, "I don't really have an excuse other than, you know, I

just didn't want to deal with the stress. I had enough going on with trying to make payments and everything else on the stuff that I was paying on." (Tr. 62)

After his hearing Applicant sent a budget spreadsheet and checking account statements for January through July 2022; however, he did not mark or indicate which payments were made to any SOR creditors. (AE D; AE F)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence 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. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

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 Appeal Board explained the scope and rationale for the financial considerations security concern in ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012) (citation omitted) as follows:

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money in satisfaction of his or her debts. Rather, it requires a Judge to examine the totality of an applicant's financial history and circumstances. The Judge must consider pertinent evidence regarding the applicant's self-control, judgment, and other qualities essential to protecting the national secrets as well as the vulnerabilities inherent in the circumstances. The Directive presumes a nexus between proven conduct under any of the Guidelines and an applicant's security eligibility.

AG ¶ 19 includes disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts”; and “(c) a history of not meeting financial obligations.”

In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government’s obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

Id. (internal citation omitted). The record establishes the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

The financial considerations mitigating conditions under AG ¶ 20 are as follows:

(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.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board explained Applicant’s responsibility for proving the applicability of mitigating conditions as follows:

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

Applicant experienced underemployment, unemployment, separation, overseas employment, his mother's illness, variations in income, and is pending divorce. These are circumstances largely beyond his control, which adversely affected his finances. However, "[e]ven if applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the judge could still consider whether applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)).

Another component under AG ¶ 20(a) is whether Applicant maintained contact with creditors and attempted to negotiate partial payments to keep debts current. He did not prove that he maintained contact with his SOR creditors or that he made written offers to make partial payments to them. He said he did not make any contacts with his creditors from the date of his receipt of the January 12, 2021 SOR to the date of his hearing on July 14, 2022.

Applicant is credited with mitigating the following SOR debts: ¶ 1.d for \$472; ¶ 1.f for \$1,675. ¶ 1.g for \$7,493; ¶ 1.h for \$643; and ¶ 1.i for \$174. He said he paid these five debts, and they do not appear on his 2020 and 2022 credit reports.

Applicant is not credited with mitigating his other SOR debts. His annual pay from May 2021 through the date of his hearing was \$149,000. He was also receiving disability from the VA and not paying his mortgage. He did not prove he was unable to establish a payment plan and make some payments to more of his SOR creditors. See ISCR Case No. 14-03612 at 3 (Aug. 25, 2015) ("Indeed, even if a credit report states that a debt has been paid, that fact alone does not, in and of itself, resolve concerns arising from the dilatory nature of an applicant's response to his debts or other circumstances that detract from an applicant's judgment and reliability. In this case, the Judge commented on the absence of detailed evidence about how Applicant addressed his finances and reasonably had doubts about his clearance eligibility based on that lack of evidence").

Applicant's history of non-payment of several of his SOR debts has important security implications. See ISCR Case No. 20-01004 at 3 (App. Bd. June 28, 2021) ("Resolution of a delinquent debt does not preclude further inquiry or examination regarding it. Even if an alleged debt has been paid or canceled, a Judge may still consider

the circumstances underlying the debt as well as any previous actions or lapses to resolve the debt for what they reveal about the applicant's worthiness for a clearance") (citing ISCR Case No. 15-02957 at 3 (App. Bd. Feb. 17, 2017)). Even if he paid the delinquent SOR debts after receipt of the SOR, this would not automatically mitigate security concerns.

[T]he timing of ameliorative action is a factor which should be brought to bear in evaluating an applicant's case for mitigation. An applicant who begins to resolve security concerns only after having been placed on notice that his or her clearance is in jeopardy may lack the judgment and willingness to follow rules and regulations when his or her personal interests are not threatened.

ISCR Case No. 17-04110 at 3 (App. Bd. Sept. 26, 2019) (citing ISCR Case No. 17-01256 at 5 (App. Bd. Aug. 3, 2018)).

One function of an SOR is to place an Applicant on notice of a particular security concern, such as finances and delinquent debts. A financially-based SOR provides an Applicant an opportunity to show good faith and establish payment plans, pay debts, or otherwise mitigate security concerns. An Applicant who is insensitive to the importance of compliance with promises to repay borrowed funds and to expeditiously resolve security concerns may not diligently act to safeguard security.

Given his income and available funds, Applicant did not demonstrate that he was unable to make more progress sooner in the resolution of several of his SOR debts. There is insufficient assurance that his financial problems are being resolved. Under all the circumstances, he failed to mitigate financial considerations security concerns.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline F are

incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is a 48-year-old logistics management analyst who has been working for a DOD contractor since March 2021. He has been at an overseas location since May of 2021. He honorably served on active duty in the Army from 1992 to 1997, and in the Army Reserve from 2010 to 2019. He was a sergeant when he left the Army Reserve. He has periodically held a security clearance since 1995. There is no evidence of any security violations.

Applicant provided important mitigating information. His finances were harmed by several circumstances largely beyond his control. He is credited with mitigating the following SOR debts: ¶ 1.d (\$472); ¶ 1.f (\$1,675); ¶ 1.g (\$7,493); ¶ 1.h (\$643); and ¶ 1.i (\$174). He said he paid these five debts, and they do not appear on his 2020 and 2022 credit reports. He is credited with mitigating these five SOR allegations.

The evidence against grant of a security clearance is more substantial at this time. The January 12, 2021 SOR alleges nine delinquent debts totaling \$75,798. Applicant did not make any payments after receipt of the SOR to address four SOR debts totaling \$65,341. Since May 2021, Applicant's annual income has been \$149,000. He has been receiving VA disability payments and not paying his mortgage for more than one year. He failed to provide persuasive information to explain why he was unable to make greater progress sooner resolving the four remaining SOR debts. He did not employ reasonable and prudent actions to check on these debts after he received notice from the SOR. He did not show a track record of consistent payments to address these four debts. His financial history raises unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No.12-00270 at 3 (App. Bd. Jan. 17, 2014)).

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards documented resolution of his past-due debts, and a better track record of behavior consistent with his obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate 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, and 1.c: | Against Applicant |
| Subparagraph 1.d: | For Applicant |
| Subparagraph 1.e: | Against Applicant |
| Subparagraphs 1.f through 1.i: | For Applicant |

Conclusion

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

Mark Harvey
Administrative Judge