



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



In the matter of: )  
)  
) ISCR Case No. 20-02927  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Department Counsel  
For Applicant: Carl A. Marrone, Attorney At Law

September 12, 2022

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On July 28, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations and Guideline E, Personal Conduct. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective for cases after June 8, 2017.

Applicant answered the SOR on January 8, 2022, and February 22, 2022, and requested a hearing before an administrative judge. The case was assigned to me on April 25, 2022. The Defense Office of Hearings and Appeals issued a notice of hearing on May 11, 2022, and the hearing was convened as scheduled on July 8, 2022. The Government offered sixteen Exhibits, referred to as Government Exhibits 1 through 16,

which were admitted without objection. Applicant offered twenty-seven exhibits, referred to as Applicant's Exhibits A through AA, which were admitted without objection. Applicant called three witnesses and testified on his own behalf. The record remained open following the hearing, until close of business on July 2, 2022, to allow the parties the opportunity to submit written closing arguments. Both the Applicant and the Government submitted written closing arguments within the time period allotted. DOHA received the final transcript of the hearing (Tr.) on July 22, 2022.

### **Findings of Fact**

Applicant is 69 years old, and is unmarried with no children. He has a Master's degree. He is employed by a defense contractor as a Senior Systems Engineer. He is seeking to obtain a security clearance in connection with his employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness and ability to protect classified information.

The SOR alleged that Applicant has six delinquent debts owed to creditors on accounts that were placed for collection, past due, or foreclosed upon, totaling in excess of \$140,000. In his answer, Applicant denies allegations 1.a., and 1.b. He admits the remaining allegations with explanations set forth in the SOR. Credit reports of the Applicant dated April 20, 2018; November 18, 2019; December 7, 2020; and April 18, 2022, confirm this indebtedness. (Government Exhibits 3, 4, 5, and 6.)

Applicant began working for his current employer in March 2021, but has over 40 years of experience in the defense industry. He has had no noted interruptions in his employment. Applicant is an excellent employee, and is well-respected in the workplace. He lives in a property he purchased in 2000. (Government Exhibit 7.)

In 2008, during a real estate market downturn, Applicant decided to become a real estate investor in his spare time. Relying on suggestions from acquaintances, he purchased a number of rental properties with hopes of making a good investment. Things have not turned out favorably for him. He has made connections and aligned himself with people who engage in scandalous schemes to obtain loan modifications, without following standard business practices. Applicant has naively tried to make his way, without proper guidance, through the volatile and highly risky real estate market. His exposure to non-licensed financial advisors has not been helpful. Applicant's lack of sound training in real estate principles, coupled with ill-advised real estate investments, has been telling.

1.a. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$1,903. Applicant stated that he hired a credit repair

company to assist him in resolving his debts. He learned from them that this debt was for a security system that he installed at one of his rental properties. Applicant stated that he has never asked for a consultation, or quote, or ordered a security system to be installed, and knew nothing about the debt. The creditor informed Applicant that they had proof that someone had ordered the system online from a computer, and that the IP address could be traced back to him. Applicant negotiated a settlement, and paid the debt off. The debt was removed from his credit report. The debt is no longer owing. This allegation is found for the Applicant. (Tr. p. 31-33, and Applicant's Exhibits D and E.)

1.b. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$631. Applicant learned from the credit repair company that this debt was for a year membership at a gym. Applicant claimed that he went to this gym several times using his credit card, but never signed up for a year-long membership. The credit repair company informed Applicant that they have removed the debt from his credit report. The debt is no longer owing. This allegation is found for the Applicant. (Tr. p. 34-35, and Applicant's Exhibits F, G, and H.)

1.c. Applicant is indebted to a bank on a home equity line of credit (HELOC) account that was past-due in the approximate amount of \$46,813, with a total balance of approximately \$145,602. Applicant testified that he opened a line of credit in 2010, against (property #5), a property he owned free and clear since the 1990's. Applicant enlisted his gentleman friend's advice, and stopped paying on the loan, to force a loan modification. Since Applicant's original loan payment was interest only, he wanted a better loan. Applicant followed the advice of his friend. Applicant stated that he stopped paying on the loan in 2015. Applicant's stated that he last contacted the creditor in 2016 or 2017. He also stated that he planned to sell the property to resolve the HELOC. (Tr. p. 111.) It was only after receiving the SOR that Applicant made arrangements to sell the property. Documentation shows that Applicant sold property #5 for \$279,000, and closed escrow on February 15, 2022, just seven months ago. (Applicant's Exhibit U.) A letter from the real estate agent who sold property #5 states that Applicant settled the lien on the property with the proceeds from the sale. (Applicant's Exhibit AA.) A copy of an email from a bank dated February 16, 2022, indicates that a mortgage loan was paid off in full as of that date. (Applicant's Exhibit V.) It appears that the HELOC is no longer owing. This allegation is found for the Applicant.

The next section of this decision is generally related to allegations 1.d., 1.e., and 1.f. In 2008, a female friend of the Applicant, (Applicant was dating her sister at the time), told Applicant about the opportunity to purchase inexpensive out-of-state rental property, with tenants and a property manager already in line. Applicant's female friend put Applicant in touch with her contact who was allegedly trying to find investors. Applicant spoke to the contact on the telephone and he remembers meeting him at his office. Applicant stated that he does not remember that a down payment was required, but the way the package was pitched, he paid \$2,000 to buy the package, and then signed the papers, and ended up owning the property, deed, and all. (Tr. pp. 43-44.) At this point, all Applicant believed he would have to do is pay the mortgage on the home,

and watch the property value appreciate. Applicant thought this was an excellent investment opportunity. Despite the fact that he had no real estate background, knowledge, or understanding, Applicant felt that he could trust his female friend. He purchased three of these out-of-state homes, and became an instant landlord.

Applicant knew very little about real estate investing or management and was not prepared for what happened next. He never personally saw the property he purchased. He never inspected the neighborhood, or met the tenants. He never reviewed the tenants credit history, nor did he ever meet the property manager. Applicant relied heavily on what his female friend told him. He was very naïve and never contemplated the risks involved in taking on the management and responsibility of being a landlord for out-of-state property.

In 2008, the real estate market crashed. His tenants stopped paying the rent. His property manager quit. There was also some vandalism, squatters, and a basement flood when a water heater gave out. Applicant was left without help, and did not know what to do so.

Again, relying on advice from his female friend, Applicant attended a real estate seminar where he met two gentlemen, who soon became his friends. They told him that they could help him with his out-of-state properties. These men were not licensed business advisors. However, for some unknown reason, Applicant trusted them explicitly, and accepted their help. One of the gentlemen advised Applicant of his “methodology” to obtain a loan modification. He told the Applicant to stop making the mortgage payments on the properties, and to default on the loans. This situation would force the bank to negotiate with the Applicant in refinancing the loans, and to obtain a more affordable monthly payment. Applicant paid these gentlemen two or three thousand dollars for their advice, and followed it. In 2013, all three properties were foreclosed upon.

1.d. Applicant was indebted to a creditor on a mortgage account (property #1) that went into foreclosure in 2013. There is some vague evidence that Applicant may have attempted to sell the property, but he ultimately “walked away” from his contractual obligation. A notice of Sheriff’s sale was filed on February 5, 2013. A final judgment amount of \$64,135.96 was recorded. (Government Exhibit 10.) There is no documentation to confirm that Applicant is fully released from his obligation to the lender.

1.e. Applicant was indebted to a creditor on a mortgage account (property #2) that went into foreclosure in 2013. There is some vague evidence that Applicant may have attempted to sell the property, but he ultimately “walked away” from his contractual obligation. A notice of Sheriff’s sale was filed on October 2, 2013. A final judgment amount of \$69,422.88 was recorded. (Government Exhibit 12.) There is no documentation to confirm that Applicant is fully released from his obligation to the lender.

1.f. Applicant was indebted to a creditor on a mortgage account (property #3) that went into foreclosure in 2013. There is some vague evidence that Applicant may have attempted to sell the property, but he ultimately “walked away” from his contractual obligation. A notice of Sheriff’s sale was filed on July 11, 2013. A final judgment amount of \$55,669.21 was recorded. (Government Exhibit 11.) There is no documentation to confirm that Applicant is fully released from his obligation to the lender.

Applicant has never indicated that he did not have sufficient monies available to him to pay his delinquent debts, pay the mortgages, or to support his investments. He was asked why he did not simply pay off the debt on the out-of-state homes. Applicant stated that at the time he defaulted on the loans, he owed about \$40,000 on each home. He thought that because the value of a home had decreased to only \$1,000 to \$2,000, he did not want to pay off the debt. So he walked away. (Tr. p. 59-60.)

Despite the fact that he was not successful with his out-of-state investment properties, Applicant continued to purchase more properties. About 2008, Applicant purchased (property #4.) (Government Exhibit 8.) This was a vacation rental property that Applicant believed needed some fixing and a swimming pool. Someone suggested to him that he could use it as his own vacation property when it was not rented. Applicant found this appealing. Applicant enlisted the help of the same gentleman he had used earlier, his friend, the unlicensed business advisor, to help him obtain a better loan. Again, the gentlemen advised Applicant to stop paying the mortgage on the property to try to get a better loan. (Tr. p. 38.)

In June 2012, Applicant co-signed with his friend to purchase (property #6), a multi-unit apartment complex. In November 2012, Applicant purchased (property #7), a second vacation rental located in the same city where (property #4), the first vacation rental is located. These new investments occurred about the same time Applicant had stopped making payments on the out-of-state properties #1, #2, and #3, that were going through foreclosure.

As time passed, Applicant continued to enlist the services of his gentlemen friend, the unlicensed financial advisor, for further real estate investment advice. As part of his friend’s strategy to obtain a loan modification, Applicant was instructed to file a number of identity theft reports through the credit agencies saying that some of the mortgage accounts recorded under his name were not his, when in fact, Applicant knew that they were his mortgage accounts. (Tr. p. 90-93.) Applicant followed this advice. In 2014, Applicant stopped paying the mortgages on his primary residence (property #8), on his rental investment, (property #4) and on his home equity line of credit associated with (property #5.) Applicant was successful in obtaining the mortgage modifications on his primary residence, (property #8) and on his vacation (property #4.) He did not obtain the loan modification for the line of credit associated with (property #5.) As discussed above, when Applicant sold (property #5), last year, he states that he paid off the HELOC with the proceeds.

In 2019, less than three years ago, Applicant purchased another (property #9), which consists of two land parcels he plans to develop into a 13-unit subdivision with a partner. (Government Exhibit 16, and Tr. pp. 106, 115.) Applicant explained that he bought the parcels for \$350,000. He obtained a hard money loan to make the purchase, at 13 percent interest, and he has a monthly payment of about \$3,700. (Tr. pp. 116-117.) A close review of Applicant's financial statement is misleading and inaccurate, as it does not show that Applicant is responsible for the entire loan payment. (Applicant's Exhibit N.)

Before he became an active real estate investor, Applicant purchased (property #5), in the 1980's that he finished paying off in the 1990's. This property Applicant purchased for his parents. Applicant's parents have since passed away. In about 2010, Applicant placed a HELOC on the property, a line of credit. Applicant used the money from the HELOC to fix up (property #4), specifically, to install a swimming pool.

Applicant stated that he has stopped enlisting the help of his unlicensed financial advisor because he now has all of the loan modifications that he needs. (Tr. p. 77.) Applicant continues to associate with his acquaintances and friends he has met and worked with through his real estate deals that have provided him with advice. He stated that he is current with all of his regular monthly expenses, and has no other delinquent debt. However, he does not follow a financial budget. (Tr. p. 123.) He currently grosses about \$10,000 a month from his employer. He also has a company retirement plan and other savings. (Applicant's Exhibits W, X and Y.) After paying his regular monthly expenses Applicant states that he has money left over for discretionary expenses. He believes that his financial situation is under control.

### **Guideline E – Personal Conduct**

The Government alleged that Applicant is ineligible for a clearance because he engaged in conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that raise questions about his reliability, trustworthiness, and ability to protect classified or sensitive information.

2.a. In 2015, Applicant obtained a mortgage modification with an application that falsely stated that he lived in the property securing the mortgage, or that he had lived there prior to being displaced. This was not true. (Tr. pp. 67-68.) The property for which the Applicant was obtaining a loan modification was not the Applicant's primary residence. Applicant stated that he was unaware of what he was signing when he completed the application. He contends that he didn't intend to defraud anyone, and was relying on his friend's advice. Applicant's explanation is not credible. Applicant knew exactly what he was doing when he signed the paperwork. His purpose was to obtain a loan modification and in order to obtain it, he needed to represent that he resided in the property, or the property would be considered an investment property, and the interest rate on the loan would automatically be higher. Applicant also admitted that he had filed a number of identity theft reports through the credit agencies saying that some of his mortgage accounts were not his, when in fact they were his mortgage accounts, in order to accomplish this loan modification. This is fraudulent. Applicant's belief that this

conduct is or was acceptable holds no merit. To trust an unlicensed financial advisor's methodology to help him obtain his loan modification shows poor judgment and unreliability. (Tr. pp. 89-92.)

2.b. Applicant completed a security clearance application dated March 23, 2018. In response to Section 26, Delinquency Involving Enforcement Other than previously listed, Applicant was asked, "In the last seven years, have you had a judgment entered against you?" Section 26, Financial Record Delinquency Involving Routine Accounts, Other than previously listed, asked, "In the last seven years, have you had any possessions or property voluntarily or involuntarily repossessed or foreclosed? . . . In the past seven years, have you defaulted on any type of loan?" Section 28, Non-Criminal Court Actions, asked "In the last ten years have you been a party to any public record civil court action not listed elsewhere on this form?" Applicant answered, "No", to all three questions. Applicant deliberately failed to disclose his HELOC, and his past-due indebtedness, and his three foreclosures as set forth in subparagraphs 1.d., through 1.f.

Applicant's excuse for not being truthful was that he was not familiar with the terms of the questions that were being asked. He stated that he did not think to ask anyone for help, as his mind is pretty proprietary. He stated that he was not trying to hide anything from the Government. (Tr. pp. 70-71.) I do not find this explanation credible. Applicant is an intelligent, well-educated engineer, who has worked for defense contractors for over 40 years. He is expected to understand the questions on the application. If the questions are complicated or too confusing to the Applicant, than safeguarding classified information would be much too difficult for him. Applicant was consistent in answering each of the three questions in the negative. He knew or should have known how to read and understand the fairly simple questions on the application, and he should have been truthful in answering them.

Instead, Applicant deliberately lied in response to the questions noted above on his security clearance application. Within seven years of the application, he had allowed three of his out-of-state properties to go into foreclosure, he had strategically defaulted on his mortgage for his primary residence, strategically defaulted on a vacation home, and was delinquent on a line of credit owed to a bank. It is incomprehensible how his responses to the questions can be explained any other way. It is clear that he was deliberately not candid or truthful in his responses on the application. His conduct is unacceptable and not tolerated by the Department of Defense.

Performance evaluations of the Applicant for the period from 2009 through 2012, are highly favorable. They reflect ratings of "exceeds" or "far exceeds" job requirements in every category. (Applicant's Exhibit Q.)

Several letters of recommendation submitted on Applicant's behalf attest to Applicant's good character. He is known to be diligent and conscientious at work, and considered trustworthy and honest. He is recommended for a security clearance. (Applicant's Exhibits R, S, and AA.)

Three witnesses testified on behalf of Applicant. Two of these individuals know nothing about Applicant's finances or real estate matters and had limited understanding of the allegations in the SOR. An Aerospace Engineer, who is a coworker of the Applicant, and who has known him since 1992, stated that Applicant is trustworthy, and can always be counted on. (Tr. pp. 131-136.) A real estate and mortgage broker, who helped the Applicant sell property #5, who also knows Applicant's friend, the unlicensed financial advisor, testified that in his opinion, the advisor is not doing good business. He knows that the man does not follow standard business practices, and is known to rip people off. He wants nothing to do with the man who he says has committed multiple frauds, and is a fraudster. (Tr. pp. 139-143.) A retired co-worker, who also submitted a letter on Applicant's behalf, testified that Applicant is a wonderful colleague. He has dinner with Applicant on occasion. He states that Applicant is a nice person. He has never observed the Applicant do anything against security policy. (Tr. pp. 145-148.) Each of the witnesses recommend Applicant for a security clearance.

## **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 clearance 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 as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 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* EO 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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

- (b) unwillingness to satisfy debts regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

The 2008 real estate market crash contributed to Applicant's failed real estate investments. However, since then, Applicant has not demonstrated a pattern of reasonable and responsible conduct. He has aligned himself with people who do not

follow standard business practices, and use scandalous methods to obtain loan modifications. Applicant has followed their advice a number of times and obtained loan modifications this way. Applicant has gone to great extents to avoid fulfilling his contractual obligations in his mortgage contracts by defaulting on three properties, has failed to make payments on his home equity line of credit, and has obtained loan modifications in unscrupulous ways. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under Financial Considerations are potentially applicable under 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;

(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.

Real estate is a risky business. Applicant assumed the risk when he invested in the out-of-state properties without any proper training or experience in the real estate market. He purchased three properties intending to make money on his investment. When the housing market crashed, and his investment went "south," he found a way to avoid the issue. He did not want to bear the burden of the decreased value of the properties, and so he defaulted on his contractual obligations and allowed the banks to assume the loss. He defaulting on three mortgage loans, and a line of credit. Instead of immediately getting out of the market, like a prudent person would do after such a devastating experience, he continued to invest and purchased more properties. He also continued to rely on the same people who advised him wrongly in the first place. By scrutinizing the timeline, Applicant was actually purchasing more properties while the out-of-state properties were going into foreclosure. His conduct was reckless, naïve,

and dangerous. He was using scandalous tactics to obtain loan modifications to avoid conventional mortgage rates. Applicant has always had sufficient financial resources available to him to pay his mortgages, but chose to allow them to go into foreclosure. Furthermore, waiting until he received the SOR, before he sold a property to pay off the lien that was placed on a home equity line of credit he defaulted on, also shows irresponsibility. Applicant's conduct has been unprofessional and scandalous. He has shown poor judgment, unreliability, and untrustworthiness. None of the mitigating conditions apply. This guideline is found against the Applicant.

### **Guideline E - Personal Conduct**

The security concern for the personal conduct 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 provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(a) deliberate 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;

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but it not limited to, consideration of:

(3) a pattern of dishonesty or rule violations; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, or duress by for foreign intelligence entity or other individual or group. Such conduct includes:

(1) engaging in activities which, if known could affect the person's personal, professional, or community standing.

AG ¶ 17 provides conditions that could mitigate security concerns. I have considered each of the mitigating conditions below:

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

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Applicant obtained a mortgage modification with an application that falsely stated that he lived in the property or had lived there prior to being displaced. This was not true. Applicant did not live in the property, and in fact obtained the modification for an investment property he owned. Applicant also deliberately concealed his derogatory financial history on his security clearance application. There is no excuse for this dishonesty. Deliberately concealing material information from the government on a security clearance application raises serious questions about one's credibility and trustworthiness. None of the mitigating conditions are applicable. This guideline is found against the Applicant.

## 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 relevant facts and circumstances surrounding this case. Applicant's deliberate untruthful responses on the mortgage modification application, as well as on the security clearance application shows poor judgment, unreliability, and untrustworthiness. In addition, there is evidence of unscrupulous conduct by the Applicant, not alleged in the SOR, but directly related to his credibility, that has been considered in this case. Relying on the advice of an unlicensed financial advisor, with no legitimate basis to dispute them, Applicant submitted a number of fraudulent identity disputes to the credit bureaus and/or to the banks to contest mortgage accounts that he knew were his own. These are outrageous, scandalous schemes that demonstrate a pattern of misrepresentations. Considered in totality, Applicant has not shown the requisite good judgment, reliability, and trustworthiness, required for eligibility to access classified information. Accordingly, I conclude Applicant has not mitigated the Financial Considerations and Personal Conduct 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	For Applicant
Subparagraphs 1.d., 1.e., and 1.f.	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a., and 2.b.	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 grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge