



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 20-03250
)
Applicant for Security Clearance)

Appearances

For Government: Alison OConnell, Esq., Department Counsel
For Applicant: *Pro se*

11/14/2022

Decision

MASON, Paul J., Administrative Judge:

Applicant intentionally falsified four security clearance applications and two Declarations of Federal Employment forms over 15 years from 2004 and November 2019. He did not provide supporting evidence addressing the financial issues. He did not mitigate the guidelines for personal conduct and financial considerations. Applicant's eligibility for security clearance access is denied.

Statement of the Case

On November 20, 2019, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) for security clearance eligibility so that he could work for a defense contractor. On January 10, 2006, November 1, 2012, and February 12, 2020, he provided personal subject interviews (PSIs) to an investigator from the Office of Personnel Management (OPM). On December 29, 2020, the Defense Counterintelligence Security Agency (DCSA) Consolidated Adjudications Facility (CAF) could not make the necessary affirmative finding to grant Applicant's security clearance and issued an SOR to him detailing security concerns under financial considerations (Guideline F) and personal conduct (Guideline E). The action was taken under

Executive Order (E.O.) 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) effective in the DOD on June 8, 2017.

Applicant submitted an undated answer to the SOR. On April 9, 2021, he submitted an email to the Defense Office of Hearings and Appeals (DOHA) requesting a hearing. DOHA assigned me the case on August 30, 2021. Following the postponement of two earlier hearings in January and March 2022, DOHA issued a notice of hearing to Applicant on May 23, 2022, for a TEAMS video teleconference hearing on June 28, 2022. I held the hearing as scheduled. I admitted the Government's 24 exhibits (GE) 1-24 into evidence without objection. GE 25 was withdrawn because Applicant had not received the exhibit prior to the hearing. Applicant testified. He did testify. On July 13, 2022, I admitted Applicant's six post-hearing exhibits into evidence without objection. (AE A-AE F) On July 14, 2022, Applicant sent an updated credit bureau report link by email. I did not receive the report because the computer link could not be established to transmit the proposed exhibit. DOHA received the transcript (Tr.) on July 12, 2022. The record closed on July 14, 2022.

Findings of Fact

Applicant is 53 years old. He has been married to his second wife since July 2001. His first marriage ended in divorce in June 1996. He has five biological adult-aged children and a goddaughter that he has raised as his own. He still supports one of his daughters and her two sons. He has been working for an emergency management business since March 2021. Before that job, Applicant was a logistics manager from August 2019 to March 2021. His employer terminated his employment because he had no security clearance. He was unemployed from February 2018 to August 2019. He has held previous jobs as a supply analyst, and a supply technician. During his unemployment from January 2012 to July 2014, Applicant supported himself through the Veterans Affairs (VA) Disability Program. He was also unemployed from September 2011 to November 2011. He received an honorable discharge in October 2003 from the United States Army following 14 years of active duty, but denies he received an other than honorable discharge in December 2004 from the United States Army Reserve (USAR). See SOR ¶ 2.j. In his November 2019 e-QIP, he claimed that he was granted a security clearance in 1991, and was never debarred from federal employment. Records from OPM show that his second term of debarment ended in July 2018. (GE 1 at 13-25, 30, 49-50; GE 24; Tr. 41-42; AE E)

Financial Considerations

The SOR contains five allegations under the financial considerations guideline, and 21 allegations under the personal conduct guideline. Applicant admitted that he filed a Chapter 7 Bankruptcy that was discharged in November 2012, as alleged under SOR ¶ 1.a. (GE 3 at 2) The amount discharged was approximately \$71,400. He was 43 years old when the bankruptcy was discharged. He filed the petition because the

medical issues of his wife and two of his children, along with student loans, became too large to handle. In his November 2019 e-QIP, he denied receiving credit counseling in the last seven years. There is no indication in the record that Applicant has ever had credit or financial counseling. I take official notice that at the time he filed the petition in August 2012, he had to take a credit-counseling course as a condition of filing the bankruptcy petition. (GE 1 at 53; GE 2 at 23-25; GE 3-5)

The total amount of delinquent debt from SOR ¶¶ 1.b through 1.e is \$13,735. The listed debts transitioned to past-due debt status between May 2013 and January 2020. (GE 2 at 25; GE 3-5)

SOR ¶ 1.b is a delinquent installment car loan. The account became delinquent in May 2013. (GE 3 at 2; GE 4 at 5) Applicant admitted the debt. He cosigned for a car that his wife was purchasing. Someone told him that his name would be removed from the contract if payments were consistently made for a year. According to Applicant, after making payments for several years, his wife became ill and they tried to settle the outstanding balance of about \$9,000 as the car was not worth more than \$500. The dealer repossessed the car. (GE 2 at 24; Tr. 45-47) Even though he submitted no supporting documentation, he claimed that he is still disputing the balance. The account is unresolved.

Applicant denied 1.c, 1.d, and 1.e because they were included in his November 2012 bankruptcy and they no longer appear on his credit report. He claimed that he had documentation verifying that the accounts were included in his bankruptcy. (Tr. 49) SOR ¶ 1.c is a cell phone account that became delinquent in March 2015. (GE 3 at 2) SOR ¶ 1.d is a credit card account that became delinquent in March 2014. SOR ¶ 1.e is a collection account for a cable television. (GE 2 at 24; GE 2 at 3-4; GE 4 at 6) Applicant submitted no documentation in support of his claim. The accounts are still unresolved.

Personal Conduct

SOR ¶ 2.a indicates that Applicant, at age 24, was charged with felony possession of marijuana with intent to distribute in April 1996. He admitted the offense. He was sentenced to 18 months, with 18 months of probation. He was released from probation early because of good behavior, and placed on work release. He claimed the record was sealed by the judge or the probation officer, allowing him to reenlist in the USAR in November 2003. Applicant claimed that a clerk of the court supposedly informed Applicant that the judge had expunged the information because it was too old. (GE 2 at 19; Tr. 49-51) See SOR ¶ 2.j.

SOR 2.b alleges that in January 1997, Applicant was charged with failure to appear and fraudulent use of a birth certificate/driver's license. He admitted the charge and explained the court dates for this case in State X were the same as the court dates of another case in State Y. (SOR ¶ 2.a.) He knew that he was not permitted to drive, but his friend decided not to drive to the court in State Y. He borrowed his brother's license and the police stopped him on his way to the court appearance in State X. Applicant

claimed this was the first time that he used his brother's driver's license. He received a day in jail. (Tr. 51, 53-54)

SOR ¶ 2.c refers to a fugitive from justice charge filed in February 1997 by the presiding judge in the SOR ¶ 2.a case (State Y), when Applicant did not appear because he was sitting in jail in State X. He admitted the offense. After his transfer back to the court in State Y (SOR ¶ 2.a), the judge dropped the fugitive from justice bench warrant. (Tr. 54)

SOR ¶ 2.d alleges that in September 1998, Applicant was charged with driving with a suspended license, second offense. He admitted the offense and noted that he previously drove to and from work on a suspended license on several occasions. (Tr. 55)

SOR ¶ 2.e indicates that in March 1999, Applicant, when he was 30 years of age, was found in State X to be a habitual offender, and his driver's license was revoked for 10 years. Applicant admitted the habitual-offender designation. He testified that after he paid the associated fines and fees, he was able to receive a restricted driver's license for a year, and then his driving privileges were fully restored. There are no current restrictions on his license. (Tr. 55-56)

SOR 2.f is an October 1999 probation violation relating to the offense described in SOR ¶ 2.a (the ¶ 1.a reference in the allegation is incorrect.) Though he denied this allegation in his answer, after reading pertinent parts of GE 13 (a one-page exhibit), Applicant agreed that he served two days incarceration. (GE 13; Tr. 56-59)

SOR ¶ 2.g was a revoked operator's license charge that occurred in November 1999, and that Applicant admitted. Instead of a ten-day sentence, Applicant recalled spending less than a day in jail. (Tr. 59-60)

SOR ¶ 2.h refers to the charges that were filed against him in April 2001 for driving while under the influence (DUI), driving on a suspended license, and carrying the driver's license of another person. At the time he was stopped, he had his restricted license. However, the police checked his wallet and found he had his brother's license. Applicant was convicted of DUI and use of a birth certificate, a reduced misdemeanor offense of being in possession of another person's driver's license. He claimed that this was the only time he was found with his brother's driver's license, even though he was in possession of his brother's license in January 1997. See SOR ¶ 2.b. (Tr. 60-61)

SOR ¶ 2.i alleges that Applicant used marijuana on several occasions between 2000 and 2002. He admitted using marijuana during the period and testing positive for marijuana use in April 2001, during his military service. However, he waffled in his testimony describing his marijuana use since that time. At first, he stated that he had not used in 20 years. Then he stated that it was about 10-15 years ago. Finally, he estimated that he had not used marijuana for ten years. (Tr. 62-63)

SOR ¶ 2.j alleges that in November 2003, Applicant reenlisted in the Army Reserve for a period six years. In December 2004, he received an other than honorable discharge for this period of service. Applicant admitted signing the reenlistment paperwork after being told by the retention office that he owed the Reserve six years. When a commander told him that he was not obligated to serve additional years in the Reserve, he discontinued participation after two drills and received other than an honorable discharge in December 2004. He presented unpersuasive documentation to disprove the 2004 discharge. (Tr. 63-67; AE C)

SOR ¶¶ 2.k, 2.l, 2.m, and 2.n allege that Applicant intentionally falsified material facts from his three security clearance applications (SCAs) in January 2004 (GE 17), June 2005 (GE 18), January 2008 (GE 19), and his Declaration for Federal Employment (GE 20) in May 2008. Applicant admitted that he deliberately falsified the four security forms. He had two reasons for falsifying the forms: (1) he did not believe he would get the job unless he furnished fictitious information; and (2) he had six children to feed and house. (Tr. 68-69)

In Applicant's January 2004 SCA (SOR ¶ 2.k), he intentionally concealed information about the offenses in SOR ¶¶ 2.a, 2.c, 2.d, 2.f, 2.g, 2.h, 2.i, and 2.j. (GE 17 at 5-6; Tr. 67-69) In his June 2005 SCA (SOR ¶ 2(l), he concealed information about the offenses listed in SOR ¶¶ 2.a, 2.c, 2.d, 2.f, 2.g, 2.h, 2.i, and 2.j. (GE 18 at 6-7; Tr. 67-69) In his January 2008 SCA (SOR ¶ 2.m), he deliberately concealed information about the offenses listed in SOR ¶¶ 2.a, 2.h, 2.i, and 2.j. (GE 19 at 7-8; Tr. 69) In Applicant's Declaration of Federal Employment certified by him in May 2008 (SOR ¶ 2.n), he deliberately concealed information about the offenses listed in SOR ¶¶ 2.a, 2.d, 2.f, 2.g, 2.h, and 2.j.

SOR ¶ 2.o indicates that in January 2009, OPM debarred Applicant from Federal employment until September 2011. He was 39 years old at time. The debarment letter was based on several of the charges identified in the SOR. Those charges include SOR ¶¶ 2.a, 2.h, 2.k, 2.l, 2.m, and 2.n.

SOR ¶ 2.p alleges that in January 2012, Applicant was charged with possession of marijuana and open container. In his answer to the SOR, he denied the charges because he claimed the case was dismissed. At the hearing, he admitted paying a fine for the open container. (Answer to SOR; Tr. 70-71)

SOR ¶ 2.q alleges that Applicant misused a Government credit card while working for a federal administrative agency in 2012 as a supply management specialist. He denied the allegation and claimed that his wife accidentally charged several travel-related expenses to the Government card to pay for Applicant's transportation to visit and care for his ailing father and mother in different locations in the United States. In an undated letter drafted by the union representative, he, the director of the federal administrative agency, the team leader, and the mediator of the hearing met to discuss Applicant's misuse of the credit card. Following the hearing, the mediator determined that Applicant's wife used the card by mistake and sealed the case. Though the record is not clear, apparently Applicant's supervisor was unhappy with the hearing outcome.

(GE 22 at 4-8; Tr. 71-78; AE A, B, D, F) Without official documentation of the mediator's findings and conclusions after the hearing, I am unable to assign much weight to the written submission of the union representative. I do not find Applicant's oblique explanations for the Government credit-card expenses to be credible.

SOR ¶ 2.r alleges in November 2012, Applicant received paperwork indicating that the federal agency intended to terminate him for misuse of his Government credit card. Applicant denied the allegation, contending that he was in the process of resigning to take care of his critically ill parents, not because of misuse of his Government credit card. In response to the additional billing charges appearing in the termination paperwork, Applicant indicated that some of the listed car and airline expenses were incurred depending on the status of his father's treatment or surgery. He repaid the outstanding government credit-charges charges immediately. The union representative determined that the only way to resolve the credit-card issue was to have Applicant resign. He did what the union representative told him to do. Applicant considers his resignation was based on the condition that the case was to be closed and sealed. (GE 22 at 4-8; Answer to SOR; Tr. 75-79, 85; AE A, D)

SOR ¶ 2.s alleges that Applicant falsified his Declaration of Public Employment in June 2014, by not disclosing information set forth in SOR ¶¶ 2.j and 2.r. SOR ¶ 2.j displays dates that are outside the time window of questions #9 through #13 of the form. However, SOR ¶ 2.r is inside the time window of question #12 in the declaration. Applicant did not include SOR ¶ 2.r in his answer, but he should have since the resignation occurred less than five years before June 2014, the date when Applicant signed the declaration. The purported agreement that the union representative negotiated for Applicant to resign to close the case, did not permit Applicant to intentionally falsify the declaration. I do not find Applicant's explanations credible. (GE 23 at 1-2; Tr. 79-81, 84-86) SOR ¶ 2.s is resolved against Applicant.

SOR ¶ 2.t alleges that in July 2015, OPM debarred Applicant from federal employment until July 2018. Applicant admitted he was debarred. The reasons for the debarment included his other than honorable discharge in December 2004 (SOR ¶ 2.j) and his misuse of his Government credit card (SOR ¶ 2.q) in 2012. (GE 24; Tr. 81-82)

SOR ¶ 2.u alleges that Applicant falsified his November 2019 e-QIP by failing to reveal the information appearing in SOR ¶¶ 2.j and 2.r. It is clear from his answer to the SOR, that he misread allegation thinking that question referred to his past criminal and traffic charges. Based on his testimony at the hearing, he denied SOR ¶¶ 2.j and 2.r. (Tr. 75-79) As noted in the discussion under SOR ¶¶ 2.j and 2.r, I do not find his explanations credible. This allegation is resolved against Applicant. He did not disclose his other than honorable discharge in December 2004 on his November 2019 e-QIP. He intentionally concealed information about his 2012 resignation by claiming it was due to the medical condition of his parents rather than misuse of his government credit card. (GE 1 at 17, 24; GE 24 at 6-8; Tr. 84-86)

Applicant indicated that he concealed the truth from his past security clearance applications because he was trying to retain employment and feed his family. He is

embarrassed by his past misconduct. The falsifications occurred when he was immature and misguided. Applicant's debarment has convinced him that he has to be truthful on all security applications. (GE 2 at 35; Tr. 86)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines and all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. These guidelines, which are flexible rules of law, are applied together with common sense and the general factors of the whole-person concept. The protection of the national security is the paramount consideration. AG ¶ 2(d) 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 applicant or proven by Department Counsel. . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

Analysis

Financial Considerations

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.

AG ¶ 19. Conditions that could raise a security concern and may be disqualifying include:

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

The record indicates that Applicant received a Chapter 7 Bankruptcy discharge in November 2012, but encountered continuing financial problems. There are four delinquent accounts listed in the SOR totaling approximately \$13,735. The accounts became delinquent between May 2013 and 2020. The record supports application of AG ¶¶ 19(a) and 19(c).

AG ¶ 20. Conditions that could mitigate security concerns include:

(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; and

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

Applicant received a Chapter 7 Bankruptcy discharge in November 2012. He and his wife demonstrated good judgment in maintaining car payments (SOR ¶ 1.b) for six years (circa 2018), and trying to negotiate a settlement on the car when they discovered their overall payments exceeded the value of the car. Nevertheless, Applicant provided no evidence of action taken on the account after 2018. He furnished no corroborating evidence to bolster his claim that he is still disputing the debt.

Regarding SOR ¶¶ 1.c, 1.d, and 1.e, Applicant asserted that the debts no longer appear in his credit report. However, he supplied no evidence to support his claim that the debts were included in his 2012 bankruptcy. Even though the running of the state statute of limitations is the reason for the removal of the accounts from Applicant's credit report, the accounts remain his responsibility and he still has not resolved them. The DOHA Appeal Board has consistently held that reliance on a state limitations statute does not translate to a good-faith effort to resolve financial problems. ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016) Applicant's lack of a meaningful record of payments to resolve the delinquent debts raises continuing concerns about his judgment and reliability. AG ¶¶ 20(a) and 20(d) do not apply.

Applicant's periodic unemployment since September 2011, along the medical problems of his wife and children, were unforeseen circumstances beyond his control. He receives some mitigation under the first prong of AG 20(b). However, Applicant's reliance on the statute of limitations instead of paying on the delinquent accounts, or attempting to arrange a payment plan with the creditors, or keeping the creditors periodically aware of Applicant's financial problems, are not responsible actions under the circumstances. The second prong of AG ¶ 20(b) does not apply.

As a condition of filing his Chapter 7 Bankruptcy in August 2012, Applicant had to complete a credit-counseling course. However, there is no indication in the record that he has ever had additional financial counseling. In sum, Applicant receives limited mitigation under the first prong of AG ¶ 20(c), but no mitigation under the second prong of the condition because there is no clear indication the overdue accounts are being resolved or under control.

Personal Conduct

The security concern for personal conduct is set forth 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 information. Of special interest is any failure to provide truthful and candid answers during the national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation or further processing for national security eligibility.

The potential disqualifying conditions under AG ¶ 16 are:

(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 areas that is not sufficient for an adverse determination under any other 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 he 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 is not limited to, consideration of:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information ...
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations; and
- (4) evidence of significant misuse of Government or other employer's time or resources.

Between January 2004 and November 2019, Applicant deliberately falsified four security clearance forms and two Declaration for Federal Employment forms. In the 2004 and 2005 SCAs, he did not disclose information listed in SOR ¶¶ 2.a, 2.d, 2.f, 2.g, 2.h, 2.i, and 2.j. The ¶ 2.a offense was a 1996 felony arrest and conviction for possession of marijuana with intent to distribute. The ¶ 2.c offense was a February 1987 fugitive from justice charge. The ¶ 2.d offense was driving on a suspended license, second offense. The ¶ 2.f offense was a probation violation related to the ¶ 2.a offense. The ¶ 2.g offense was a November 1999 charge for revoked driver's license. The ¶ 2.h offense was an April 2001 charge of DUI, driving on a suspended license, and felony possession of a license of another. ¶ 2.i refers to Applicant's use of marijuana between 2000 and 2002. ¶ 2.j represents Applicant's reenlistment in the Army Reserve in November 2003 and discharge that was other than honorable in December 2004.

In Applicant's January 2008 SCA (SOR ¶ 2.m), he intentionally did not disclose the information identified in SOR ¶¶ 2.a, 2.h, 2.i, and 2.j. (Refer to preceding paragraph for description offenses.)

In Applicant's May 2008 Declaration for Federal Employment (SOR ¶ 2.n), he deliberately failed to disclose information delineated in SOR ¶¶ 2.a, 2.d, 2.f, 2.g, 2.h, and 2.j.

In Applicant's June 2014 Declaration for Federal Employment (SOR ¶ 2.s), he intentionally failed to disclose the events described in ¶¶ 2.j and 2.r. In Applicant's 2019 e-QIP (SOR ¶ 2.u), he intentionally did not disclose the information outlined in ¶¶ 2.j and 2.r. AG ¶ 16(a) applies to Applicant's intentional falsifications of security clearance

applications and forms. AG ¶¶ 16(c), and 16(d)(3) apply to Applicant's overall pattern of dishonesty and violations of drug and driving laws.

AG ¶ 17. Conditions that could mitigate security concerns include:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated truthfully;

(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; and

(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.

AG ¶ 17(a) does not apply. Applicant did not attempt to correct the falsifications during the course of the security investigation.

Applicant claimed he concealed the felony and other drug information during the security investigation because a judge, or a probation officer indicated that it was expunged. A clerk of the court supposedly informed Applicant that the judge had expunged the information because it was too old. I do not find these explanations persuasive. The more persuasive reasons which he stated repeatedly in his answer and at the hearing, were that he deliberately falsified the forms to protect his current employment or enhance his chances of landing new employment so that he could care and feed his family. While the record does not provide an obvious reason why Applicant prevaricated about his December 2004 discharge, I am not persuaded that his resignation in 2012 was simply due to his parent's terminal medical conditions. AG ¶ 17(b) does not apply.

Applicant's falsifications were not minor because he repeatedly filed falsified Government security forms to acquire a security clearance and obtain or retain a job. The falsifications, which did not occur under unusual circumstances, raise continuing security concerns regarding Applicant's reliability, trustworthiness and judgment. AG ¶¶ 17(c) and 17(d) do not apply.

Whole-Person Concept

I have examined the evidence under the guideline for financial considerations in the context of the nine general factors of the whole-person concept 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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept.

Applicant falsified six Government forms in 15 years. His most recent falsification occurred in November 2019, less than three years before his security clearance hearing. He was debarred from federal employment from 2009 to 2011. A little over a year later, he was involved in the Government credit card investigation. He was debarred a second time from Federal employment from July 2015 to July 2018. In November 2019, he falsified his e-QIP. Having weighed and balanced the entire record in the context of the adjudicative guidelines and the whole-person concept, Applicant's evidence in mitigation is insufficient to overcome the security concerns raised by the guidelines for financial considerations and personal conduct.

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
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b-1.e:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.u:	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 Applicant eligibility for access to classified information. Applicant's application for a security clearance is denied.

Paul J. Mason
Administrative Judge