



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-01593
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Kelly M. Folks, Esq., Department Counsel  
For Applicant: *Pro se*

02/01/2023

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**Decision**

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PRICE, Eric C., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline E (personal conduct), Guideline F (financial considerations), and Guideline J (criminal conduct). Eligibility for access to classified information is denied.

**Statement of the Case**

The Defense Counterintelligence and Security Agency Consolidated Adjudications Facility issued to Applicant two Statement of Reasons (SOR), dated November 6, 2020 and November 16, 2020, detailing identical security concerns under Guideline E (personal conduct), Guideline F (financial considerations), and Guideline J (criminal conduct). The action was taken under Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

Applicant provided an incomplete and undated response to the SOR dated November 6, 2020, and a more complete response on April 1, 2021, to the SOR dated November 16, 2020. I have consolidated and will refer to both of these responses as SOR Response. He also requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on March 25, 2022. On April 27, 2022, DOHA issued a notice of hearing scheduling the hearing via video teleconference for June 10, 2022, but that hearing was rescheduled because Applicant was unable to access a working video camera. On June 10, 2022, DOHA issued a second notice of hearing scheduling the hearing via video teleconference. I convened the hearing as scheduled on June 24, 2022. Department Counsel offered six exhibits marked as Government Exhibit (GE) 1 through 6. I sustained Applicant's objection to a portion of GE-2 and admitted the remainder of that document in evidence. The Government's undated exhibit list and my case management order dated May 4, 2022, are marked as Hearing Exhibits (HE) I and II, respectively. Applicant testified and offered no exhibits at the hearing. The record was held open until July 29, 2022, to permit Applicant to submit documentation, which he did. Those documents were marked as Applicant Exhibit (AE) A and B; there were no objections to those exhibits. GE 1 through 6, and AE A and B are admitted in evidence. DOHA received the hearing transcript (Tr.) on July 6, 2022.

### **Findings of Fact**

After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 52 years old. He served in the United States Navy from September 1989 to February 2017, was honorably discharged, and retired as an E-6. While serving in the Navy he completed extensive training and numerous schools receiving certifications as a journeymen electronics technician and master training specialist. He is twice divorced and was married from April 1994 to June 1998, and August 2006 to May 2016. He has two adult children, ages 29 and 24. He was unemployed from February 2017 to May 2018, and has been employed as an analyst for a federal contractor since May 2018. He held a security clearance while serving in the Navy, including a top secret clearance. (GE 1; GE 2; AE A; AE B; Tr. 11, 41-51, 77-80, 105-107)

Applicant admitted all SOR allegations. (SOR Response; Tr. 17-22) The SOR allegations and relevant evidence are summarized below.

### **Guideline E - Personal Conduct and Guideline J - Criminal Conduct**

**SOR ¶¶ 1.a and 1.b: Deliberately provided false information for dependent benefits and renewed ID card for ineligible former spouse:** Applicant admitted that he deliberately provided false information to the Navy on at least three occasions from about May 2013 to September 2014 in order to receive dependent benefits, including a dependent ID card, to which he was not legally entitled. In about May 2013 and November 2013, he signed dependency application forms falsely identifying his former spouse, who

had divorced him in June 1998, as his current spouse. In about September 2014, he told a Navy officer that his second ex-wife, then his spouse, was his ex-girlfriend, when in fact she had been his spouse since August 2006. He testified that he married his first spouse in April 1994 and that their daughter was born in 1993. At some point, he and his first spouse became estranged. In 2005, he decided to divorce his first spouse in anticipation of marrying another woman, but learned that his first wife had divorced him in June 1998. He testified and told Navy investigators that prior to 2005, he did not know he was divorced, had not signed or received any divorce paperwork, and never went to court. He testified “when I found out I should’ve said something then, but I thought I did something, and that’s where I tried to cover it up because I thought I was already screwed.” (Tr. 57) He decided not to update his dependents status when he married his second spouse in August 2006, because he thought he had received allowances that he was not eligible for after his first marriage ended in divorce and “didn’t want to get in trouble.” (Tr. 58) (SOR Response; GE 2 at 1-2; GE 6; Tr. 18-19, 42, 51-77, 105-115)

He continued to identify his former spouse as his current spouse on dependent ID application forms until at least November 2013, and she received dependent benefits including medical care through at least October 2013. He said that he did not know that she received dependent benefits, that he did not intend for her to do so, and that he reimbursed the Government for the cost of those benefits. He did not submit documentary evidence to corroborate his claims. In a sworn statement to investigators, his first wife stated that Applicant would not cooperate with the divorce, so in accordance with guidance from her attorney, she sent copies of the divorce decree to him and his Navy supervisor. She also said that thereafter “about every four years, around the time our ID cards were about to expire [Applicant would call and tell her she] could get the ID cards [for herself and their daughter].” (GE 6 at 23) She indicated her relationship with Applicant was contentious and that one of the few reasons they communicated was when her or her daughter’s military ID was about to expire. (SOR Response; GE 2 at 1-2; GE 6; Tr. 18-19, 42, 51-77, 105-115)

**SOR ¶ 2.a: Special court-martial guilty plea and sentence:** In September 2014, Applicant’s second spouse reported that she had been married to Applicant since 2006 and that she had not received a military identification (ID) card or benefits. In October 2014, Applicant provided a statement to Navy investigators admitting the misconduct alleged in SOR ¶¶ 1.a and 1.b. (GE 6 at 19-21). In response to the SOR, Applicant admitted that in about October 2015 he pled guilty to four military offenses including three false official statements for identifying his former spouse as his current spouse in dependent application forms in May and November 2013, and intentionally deceiving his administrative officer in September 2014 by identifying his then spouse as his “ex-girlfriend,” and wrongfully renewing his former spouse’s military ID card. He was sentenced to reduction in rate from E-8 to E-7, forfeiture of \$3,000 pay per month for six months, and fined \$2,242. Following subsequent administrative proceedings, the Secretary of the Navy approved his retirement in the paygrade of E6. (SOR Response; GE 1 at 21, 34-36; GE 2 at 1-2; GE 6; Tr. 19-20, 77-80, 114-117)

## Guideline F – Financial Considerations

**SOR ¶ 3.a: cross alleges information in SOR ¶¶ 1.a and 1.b.** Applicant admitted the allegation. (SOR Response; Tr. 20-21)

**SOR ¶ 3.b: failure to file federal income taxes for tax years 2017 and 2018.** Applicant admitted that he failed to file, as required, federal income tax returns for tax years 2017 and 2018. He noted that he was “[a]waiting paperwork (W-2’s).” (SOR Response at 2) He testified that he had not filed federal income tax returns for tax years 2017 or 2018 because he was awaiting the outcome of the security clearance process to determine whether he could afford to resolve his delinquent tax accounts, or if he should file for bankruptcy. He acknowledged he had not contacted the IRS about filing or paying his delinquent taxes, and said that he had been claiming zero exemptions to minimize his tax debt. He said that he had consulted with a friend with tax preparation experience three times from approximately April 2018 to June 2021. He attributed his financial difficulties and decision not to file income tax returns to divorce, child support, loss of income associated with his court-martial sentence, including administrative errors in his pay, unemployment, and uncertainty about his future employment. (SOR Response; GE 1 at 41-42; GE 2 at 3; Tr. 20-21, 81-90, 117-126)

**SOR ¶ 3.c: collection account for \$5,895.** Applicant admitted the allegation. Credit reports from September 2019 and July 2020 reflect the account as placed for collection with a balance of \$5,895, and that the consumer disputed the account information. He testified the debt was for an apartment lease that he had signed in 2017 for a friend, and that his friend had moved out of the apartment in approximately 2018. He attributed his financial difficulties to his friend’s failure to pay the rent, divorce, child support, loss of income associated with his court-martial sentence, including administrative errors in his pay, unemployment, and uncertainty about his future employment. He said that he was awaiting the outcome of the security clearance process to determine whether he could afford to pay the debt or if he should file for bankruptcy. He provided no documentary evidence that he contacted the creditor, made payments on or otherwise resolved the debt. This debt is not resolved. (SOR Response; GE 2 at 4; GE 3 at 5; GE 4 at 1; Tr. 20-21, 90-92)

**SOR ¶ 3.d: credit card account in collection for \$10,472.** Applicant admitted the allegation. A September 2019 credit report reflects an individual account in collection for \$10,472, and credit reports from July 2020 and May 2022 show that debt has been charged off. He testified that this was his credit card account and that his second wife was an authorized user on the account. He said that he had not tried to contact the creditor and attributed his financial difficulties to divorce, child support, loss of income associated with his court-martial sentence, including administrative errors in his pay, unemployment, and uncertainty about his future employment. This debt is not resolved. (SOR Response; GE 3 at 4; GE 4 at 2; GE 5 at 5; Tr. 20-21, 92-93)

**SOR ¶ 3.e: vehicle loan charged off for \$6,905.** Applicant admitted the allegation. Credit reports from July 2020 and May 2022 reflect the account as a vehicle

loan opened in January 2015, with a last payment in March 2018, charged off for approximately \$23,000, and with a past-due balance of \$6,905. He testified that he fell behind on payments in late 2017 and that the vehicle was repossessed in early 2018. He attributed his delinquency to divorce, child support, loss of income associated with his court-martial sentence, including administrative errors in his pay, unemployment, and uncertainty about his future employment. He said that he contacted the creditor by phone in late 2017, but provided no documentary evidence of that contact or other attempts to resolve the debt. This debt is not resolved. (SOR Response; GE 4 at 2-3; GE 5 at 4; Tr. 20-21, 93-96)

**SOR ¶ 3.f: credit card account charged off for \$3,880.** Applicant admitted the allegation. Credit reports from September 2019, July 2020 and May 2022 reflect the credit card account was opened in 2008, with the last payment in January 2018, and charged off for \$3,880. He attributed his delinquency on the account to his divorce from his second wife, child support, loss of income associated with his court-martial sentence, including administrative errors in his pay, unemployment, and uncertainty about his future employment. He said that he contacted the creditor by phone in late 2017, but provided no documentary evidence of that contact or other attempts to resolve the debt. This debt is not resolved. (SOR Response; GE 2 at 3-4; GE 3 at 5; GE 4 at 3; GE 5 at 4; Tr. 20-21, 96-97)

**SOR ¶ 3.g: delinquent vehicle loan in the amount of \$23,729.** Applicant admitted the allegation. Credit reports from September 2019, July 2020, and May 2022 reflect a joint auto loan account was opened in June 2015, with the last payment in September 2017, as an involuntary repossession account with a balance of \$23,729 and past due in the amount of \$10,846. He testified that he cosigned a vehicle loan for his son's mother, and that when she could no longer pay the loan he was also unable to make payments because of his divorce from his second wife, child support, loss of income associated with his court-martial sentence, including administrative errors in his pay, unemployment, and uncertainty about his future employment. The past due balance reflected in the credit records is \$10,846; this debt is not resolved. (SOR Response; GE 2 at 5; GE 3 at 2; GE 4 at 5, GE 5 at 6; Tr. 20-21, 97-98)

Applicant testified that his net monthly income is approximately \$8,400 including \$4,800 (federal contractor net pay), \$1,800 (Navy retired pay), and \$1,800 (Department of Veterans Affairs (VA) disability payments for an 80% service-connected disability). He estimated his bank account balance at approximately \$6,000, his retirement account balance at about \$20,000, and said that he had over \$10,000 in cash. He did not provide a monthly budget, but estimated his monthly disposable income after expenses at \$3,000. He said that his disposable income varied and that he had recently been providing financial assistance to his mother because she was ill. He testified that he had received financial counseling in the Navy and every time that he made a big purchase. He said that he has never been late on his rent. (Tr. 45-47, 85-89, 99-104, 127)

Applicant provided documentary evidence that he was qualified in Navy nuclear submarines, completed extensive submarine training, earned multiple qualifications, and

received numerous awards and decorations during his Naval service. (AE A) He submitted a letter of recommendation from a retired Navy leader that favorably commented on his technical skills, performance of duties, leadership, judgement, handling of classified information, dependability, and included a recommendation that he be granted a security clearance. (AE B)

Applicant also testified that he had not filed federal income tax returns for tax years 2019 through 2021 because he was awaiting the outcome of the security clearance process. (Tr. 82-85, 117-126) Any derogatory information not alleged in the SOR will not be considered for disqualifying purposes; however, it may be considered in the application of mitigating conditions and in a whole-person analysis.

### **Policies**

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 that an 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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines (AG). 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 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision." 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 security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988); see AG ¶ 2(b).

The protection of the national security is the paramount consideration. Under AG ¶ 2(b), any doubt "will be resolved in favor of the national security." Section 7 of EO 10865 provides that 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 E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15, as follows:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

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, and

(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, and

(3) a pattern of dishonesty or rule violations[.]

Applicant's admissions and the record evidence support application of disqualifying conditions in AG ¶¶ 16(a) and 16(d).

I have considered the following mitigating conditions under AG ¶ 17 that could mitigate security concerns arising from personal conduct:

(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; 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), 17(c), and 17(d) do not apply. Applicant intentionally provided false information in dependent ID application forms or deliberately failed to correct known errors regarding his former spouse's entitlement to military dependent benefits from at least 2005 until 2014. In September 2014, he intentionally deceived his administrative officer about his marital status by declaring that the woman he was then married to was a former girlfriend. It appears that he first disclosed his misconduct to Naval authorities, during questioning by criminal investigators. He has also admitted that he was dishonest because he did not want to get in trouble for receiving allowances that he did not believe that he was entitled to after his 1998 divorce. Although he has acknowledged his misconduct, he presented insufficient evidence of other positive steps taken to change his behavior, or that the behavior is unlikely to recur. His conduct continues to cast doubt on his reliability, trustworthiness, and good judgment.

## **Guideline J, Criminal Conduct**

AG ¶ 30 expresses the security concern pertaining to criminal conduct:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following is potentially applicable in this case include:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant's admissions and the record evidence establish that he committed, pled guilty to and was sentenced by Special Court-Martial for criminal conduct in violation of Articles 107 and 134 of the Uniform Code of Military Justice. AG ¶ 31(b) applies.



AG ¶ 32 provides conditions that could mitigate security concerns. Two potentially apply in this case:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Neither mitigating condition is fully established. There is mitigating information including that the criminal behavior alleged occurred more than five years before the SOR was issued, apparent payment of the court-ordered forfeitures and fine, and the absence of evidence of criminal activity since his court-martial. However, Applicant has not provided sufficient evidence to establish either mitigating condition. His criminal conduct was not a single isolated incident, it occurred over a period of years and casts doubt on his current reliability, trustworthiness, and good judgment. The above mitigating information is insufficient to dispel the criminal conduct security concern.

#### **Guideline F: Financial Considerations**

The security concern under this guideline is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. 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.

This concern is broader than the possibility that a person might knowingly compromise classified or sensitive information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified or sensitive information. A person who is financially irresponsible may also be

irresponsible, unconcerned, or negligent in handling and safeguarding classified or sensitive information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

AG ¶ 19 provides conditions that could raise security concerns. The following are potentially applicable:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations,
- (d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust, and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant's admissions and record evidence establish that he deliberately provided false information to receive unauthorized dependent benefits, failed to file federal income tax returns for tax years 2017 and 2018, and has a history of financial problems dating back to at least 2017, including five delinquent debts totaling at least \$37,998. AG ¶¶ 19(a), 19(c), 19(d), and 19(f) apply.

The following AG ¶ 20 mitigating conditions are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶¶ 20(a), 20 (d), and 20(g) are not established. Applicant has not filed delinquent federal income tax returns for tax years 2017 and 2018 (SOR ¶ 3.b) or for tax years 2019 through 2021, and has not initiated a good faith effort to resolve, or otherwise resolved longstanding, delinquent debts (SOR ¶¶ 3.c through 3.g). His conduct is ongoing, did not occur under circumstances making recurrence unlikely, and casts doubt on his current reliability, trustworthiness, and good judgment.

AG ¶ 20(b) is not established. Applicant's separation and divorce from his second spouse, administrative errors by the Navy with respect to his pay, his friend's failure to pay rent, and unemployment were conditions beyond his control. However, he has not provided sufficient evidence that he acted responsibly. He has not filed federal income tax returns for tax years 2017 and 2018 (SOR ¶ 3.b) or for tax years 2019 through 2021, and has made no meaningful effort to resolve his delinquent debts (SOR ¶¶ 3.c to 3.g).

AG ¶ 20(c) is not established. Applicant testified that he received financial counseling and attended courses in financial management. However, he failed to provide sufficient evidence that he received financial counseling from a legitimate and credible source, and has presented insufficient evidence that the financial problems alleged in SOR ¶¶ 1.c through 1.g are being resolved, or are under control.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a public trust position 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), the ultimate determination of whether to grant eligibility for a public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under

Guidelines F in my whole-person analysis. Some of the factors in AG ¶ 2(d) were already addressed, but some warrant additional comment.

I considered that Applicant is 52 years old, served almost 28 years on active duty in the Navy, earned multiple qualifications, awards and decorations, was honorably discharged and retired in 2017. I considered that he is respected by a Navy leader and that the VA determined him to be 80% disabled due to service-connected disabilities. I also considered that he has held a security clearance, including a top secret clearance.

However, he engaged in a pattern of deception regarding his ex-spouse's eligibility for dependent status and benefits from at least 2006 to September 2014, and was court-martialed for that misconduct in October 2015. He has also failed to file federal income tax returns from tax years 2017 through 2021, and has not meaningfully attempted to resolve delinquent debts totaling at least \$37,998. His pattern of deception and subsequent decision not to file income tax returns or to make payments on or otherwise attempt to resolve his delinquent debts raise ongoing and current security concerns under the Directive.

The Government need not wait until an applicant actually mishandles or fails to properly safeguard classified information before it can deny or revoke access to such information. All that is required is proof of facts and circumstances that indicate an applicant is at risk for mishandling classified information, or that an applicant does not demonstrate the high degree of judgment, reliability, or trustworthiness required of persons handling classified information. See, e.g., ISCR Case No. 98-0188 (App. Bd. Apr. 29, 1999). Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security. Directive, Enclosure 2, App. A ¶ 2(b).

After weighing the disqualifying and mitigating conditions under Guidelines E, J and F, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns based on personal conduct, criminal conduct, and financial considerations. Overall, the record evidence leaves me with questions and doubts as to his eligibility and suitability for a security clearance.

### **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 E:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

Paragraph 3, Guideline F: AGAINST APPLICANT

Subparagraphs 3.a–3.g: Against Applicant

**Conclusion**

I conclude that it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for a security clearance is denied.

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Eric C. Price  
Administrative Judge