



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



In the matter of:)
)
) ISCR Case No. 21-00945
)
Applicant for Security Clearance)

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: Christopher Snowden, Esq.

05/09/2023

Decision

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline F, financial considerations. He mitigated the security concerns under Guideline E, personal conduct. Eligibility for access to classified information is denied.

Statement of the Case

On July 26, 2021, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) 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; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on June 8, 2017.

In an undated answer to the SOR, Applicant requested a hearing before an administrative judge. This case was assigned to me on December 14, 2022. The notice of hearing was issued on January 6, 2023, scheduling the hearing for January 30, 2023.

Applicant requested a continuance, which I granted, and the notice of hearing was issued on February 9, 2023, setting the hearing for March 22, 2023. I convened the hearing as rescheduled. The Government offered exhibits (GE) 1 through 9. Applicant testified and offered Applicant Exhibits (AE) A through R. There were no objections to any exhibits, and all were admitted in evidence. DOHA received the hearing transcript (Tr.) on March 31, 2023.

Findings of Fact

Applicant admitted all of the SOR allegations except ¶ 1.a. Applicant's admissions are incorporated into the 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 53 years old. He earned an associate degree in 2017. He served on active duty in the military from 1993 until he was medically retired in 2017. He has three children from a former girlfriend. They are 28 and twins who are 17 years old. He pays \$1,000 a month in child support for the minors, which he has paid since 1995. He married in 1997. He has one stepdaughter who is 27 years old and six children with his wife between the ages of 25 and 10. They all live at home. After retiring from the military, he had two jobs at retail stores. He also worked for a federal contractor on a short-term contract. He was hired full time by the contractor in April 2019. He has been working on the same project since then, but the contractor has changed. (Tr. 18-22, 30, 58-63, 90-92, 99-102, 106)

Applicant has an extensive deployment history while serving in the military. He deployed eight times. He had four combat deployments to Iraq and Afghanistan. In 2007, he suffered a concussion after being knocked unconscious when his platoon was hit by an improvised explosive device. Numerous soldiers were injured and there were two fatalities. He chose to stay with his platoon and not evacuate. He continues to suffer from balance issues. Applicant also deployed to Macedonia twice, Bosnia, and Kosovo. (Tr. 22-29; AE A)

Applicant suffers from post-traumatic stress disorder (PTSD) and had other medical issues when he was discharged from the military. His veteran's disability rating is 100%. He admits he was in denial for a long time with regards to his PTSD. He had suicidal ideations in 2008. He has been on medication since 2008. He was hospitalized twice so his medication could be monitored and adjusted. Since 2017, he has been seeing a counselor monthly. It was recommended he attend grief counseling, but he does not feel capable of doing so. He acknowledges that his PTSD caused him to have mood swings and sometimes he was agitated. (Tr. 29-36, 93-99; AE J, K, L)

Applicant testified that he has had financial problems since he got married. Applicant's wife was responsible for handling the finances while he was in the military due to his frequent deployments. In the early 2000s, Applicant's identity was stolen. Apparently, at some point, that issue was resolved. (Tr. 36-38)

Applicant testified that in 2014, he took over being responsible for his finances. He and his wife had separated. He did not review his credit reports. He said he contacted the creditors from whom he received letters. Applicant attended financial counseling through the military in 2015. He was told to contact his delinquent creditors and make payment arrangements. He said he could not afford to make payments. He sought assistance twice through the military emergency relief fund. Usually this is not available to a noncommissioned officer, but exceptions were made for him. He was also asking for assistance from family members. He testified that he was paying some debts at that time, but others had been sold to different creditors, and he got lost in attempting to determine the current creditor. He claimed he disputed some debts, but never was contacted by the creditor. He did not provide any documentary evidence to support his actions. (Tr. 37-40, 87-88, 103-105)

Applicant testified that in 2016 and 2017 he was still struggling financially and was aware that he had delinquent accounts. He had received letters from creditors about the delinquent accounts. He separated from the military in early 2017. Part of the separation process is to attend financial counseling. Applicant stated he attended the counseling and understood the issues he needed to address. He said he contacted creditors and began making payments, but they wanted to increase the amounts, and he could not afford it. (Tr. 38-40, 102, 104)

Applicant completed a security clearance application (SCA) in July 2019. He did not disclose any delinquent debts. The SOR alleges 13 debts totaling approximately \$13,692. These debts are reported on credit reports from August 2019, February 2021, May 2021, and January 2023. Many of the debts dropped off the more recent credit reports due to age. Applicant did not pay any of them. (GE 3, 4, 5, 9; AE B)

Applicant testified that he was aware of some of the debts alleged in the SOR because he was receiving notices from the creditors. He testified that, when he admitted the debts on the SOR, he was acknowledging they were on his credit report, not that he owed them. He said he did not recognize many of the debts. (Tr. 38-40, 51-53)

In November 2019, Applicant was interviewed by a government investigator in connection with his SCA. He acknowledged to the investigator that he had financial issues. He was confronted with many of the debts alleged in the SOR. The only account for which he offered an explanation was one owed to a landlord (SOR ¶ 1.a), which he disputed. The landlord claimed he owed money for damages when he vacated the residence. Applicant continues to dispute that debt, but it remains on his most recent credit report. He explained to the investigator that he did not plan to satisfy his delinquent debts because he cannot afford to pay them because he is caring for ten children and paying child support. He testified that he received a promotion and now has more resources with which to pay his debts. He admitted that due to the age of many of the debts they likely have fallen off of his credit report because they are older than seven years and not because they were paid. (Tr. 41-50 186, 188-191; GE 2)

Applicant's wife received an inheritance from her father when he passed away. Applicant believed it was about a year ago. He testified that she receives money each month from the inheritance. She does not use the money to help Applicant resolve the delinquent debts. He does not know the total amount of the inheritance or the amount of the monthly payments. He will not ask his wife how much it is because it will result in an argument. He will not ask her to help him pay the debts they accumulated. She does not use the money to help him financially. They purchased a \$415,000 house in December 2022. She made the down payment, but he does not know that amount. His monthly mortgage payment is \$3,400. He has two car loans for which he pays approximately \$1,300 monthly. (Tr. 54-58, 115-121)

In March 2023, Applicant signed an agreement with CC, a credit consolidation service. He testified he receives financial counseling through the service, which is part of the agreement. He also has a payment agreement that requires he pay \$384 a month to address seven debts, including the debts alleged in SOR ¶¶1.a and 1.b. No other SOR delinquent debts are included in this payment plan. Applicant is required to make his first payment in April 2023. He believes the agreement extends for four to five years. Applicant provided no other evidence of his plan or intention to resolve the remaining debts alleged in the SOR. He said he will continue to pay on the agreement with CC so he can keep his clearance. (Tr. 50-54, 121; AE B, C)

As part of the agreement with CC, Applicant provided a budget, which reflects his monthly income and expenses. His income includes his military retirement, his salary from his employer, and his disability payment. The original budget prepared by CC reflects a deficit of \$102 a month. An adjusted budget, with revised amounts to be paid to Applicant's creditors, reflects zero disposable income. Applicant explained that the amount of \$900 for miscellaneous expenses was too high and that would allow him more disposable income. (Tr. 54, 123-127; AE C)

Noted on Applicant's budget was a \$100 payment to the IRS. He explained that there was a period in 2014 when he and his wife were separated. He filed his income tax returns as single and not jointly. He continues to file his tax returns as single. He owed the IRS taxes and made payment arrangements. He testified he has had an installment agreement since 2016. He believed his original balance owed was approximately \$7,000 and the current balance is around \$3,000. He said the IRS captures any refunds for subsequent tax years and applies them to his tax debt. It is unknown if he owed taxes for other tax years. (Tr. 132-135, 187; AE C)

After receiving the SOR in July 2021, Applicant has not contacted any of the creditors in the SOR. He said he was generally aware the delinquent debts existed, but he could not afford to pay them. (Tr. 115, 136-137)

In September 2010, while serving on active duty, Applicant was charged under the Uniform Codes of Military Justice Article 120-wrongful sexual contact and Article 93-cruelty and maltreatment. Applicant was accused of wrongfully touching the breast and kissing the ear of one of his subordinate soldiers. Applicant testified that he went to a

court-martial but did not know if it was a Special Court-Martial or General Court-Martial. He was represented by a judge advocate. He said he took the stand in his defense, and it was a members trial. He said before the case was sent to the members, and while he was on the witness stand, the military judge summoned both the trial and defense counsel to the bench and dismissed the charges. Documentary evidence corroborates that there was an investigation conducted regarding the alleged incident and the charges were reported to the FBI and it is included in their records system. No other supporting documents from the court-martial were submitted. He denied the incident ever took place and denied the charges. (Tr. 64-71, 137-153; GE 2, 6, 7)

Applicant explained the incident to the government investigator and testified about it at his hearing. He stated that one of his female soldiers that was part of a specialized group of women who deployed with units in combat so they could speak to local women, requested to be transferred so she could be at a location where her husband was also in country. He stated she was the best soldier of the four-women group and the platoon had an upcoming mission, and she was essential. He denied her request. He said she then went outside the chain of command without telling him and her request was also denied when the commander asked for input regarding her request. Applicant believes the soldier accused him of the offenses in retaliation for his denial of her request. He was subsequently moved to a different unit. (GE 2)

Applicant provided a letter from a major who was a young lieutenant in 2010 and served with him. There was no mention of the court-martial incident, but the major noted how invaluable Applicant was to the unit. He explained their time together was physically and emotionally challenging noting the loss of two platoon members and the evacuation of three others in the first ninety days. The major commented on how important Applicant was to the platoon ensuring they all remained focused on the mission. The major said as a young lieutenant, he learned valuable lessons from Applicant that were transformational in how he approached leadership jobs he has had in the military. He considers him reliable, candid, and trustworthy. They have kept in contact over the years. He recommended Applicant be granted a security clearance. (GE 2, 7; AE N)

In September 2014, Applicant was arrested and charged with domestic violence and harassment. Applicant admitted he was angry with his wife, and he was yelling at her, calling her names, and throwing things. This started when she picked him up in the car with the children. He was hitting the dashboard and yelling. The confrontation continued in the house. He admitted there was a confrontation, but he was vague about the incident. During his hearing, he repeatedly stated he could not remember aspects of the incident. He was able to recall that his wife had hit him, and that he pushed her to move her away from the door that she was blocking. He admitted that his PTSD has caused him to have impulse control issues that have triggers. He does not know what the triggers are but he can feel them coming on. He left the house, and his wife called the police. He was going to stay at a friend's house. He was arrested on his way there. He and his wife separated. (Tr. 71-83, 153-165; GE 8; AE D, E, F)

In October 2014, Applicant's stepdaughter, the oldest child in the house, reported to the police that Applicant had indecently exposed himself to her. He was arrested and charged with indecent exposure. She alleged that he was scratching himself and exposed his penis and testicles. Applicant admitted he was scratching himself, but it was on top of his clothing and his genitals were not exposed. (Tr. 75-83; GE 8)

Reports from the county sheriff confirm the above two arrests. Applicant's FBI report also reflects a charge for harassment in September 2014 and indecent exposure in October 2014. In December 2014, Applicant entered a pretrial diversion program to adjudicate the harassment charge. He was required to plead guilty to the charge and complete a domestic violence program. Applicant completed the terms of the agreement and in February 2015, the order entered stated the parties had reconciled and the charge was dismissed. (Tr. 165-166; GE 6, 8; AE D, E, F, G)

Applicant testified regarding the indecent exposure charge that at the time of his case, the judge called each of his children into his chambers and spoke with them personally. Applicant was not privy to their conversation. He testified that after the judge spoke to each child the charge was dismissed. Applicant said he never discussed the allegation again and put it behind him. He believes his stepdaughter was angry about the domestic violence incident, so she falsely accused him of the offense. He believes she recanted her allegation to the judge. No other evidence was provided except the police report and that it was entered into the FBI system. (Tr. 75-83, 166-172; GE 6, 8)

Applicant testified that he and his spouse remain married and their seven children all still reside at home. The older ones have jobs and receive some money from an inheritance. He began therapy in 2018 for his PTSD. He has learned some coping mechanisms. His therapist recommended marriage counseling. He said they attended one family counseling session and went to marriage counseling twice. He stated that he and his wife do not believe in marriage counseling, and it did not work out for them. (Tr. 179-185)

In April 2019, Applicant was fired from his employment at a big retail store where he worked as a loss prevention employee. He observed a person shoplifting. It is the store's policy not to physically restrain people observed shoplifting. Applicant was aware of the policy. After observing a shoplifter, he contacted his two managers, and confronted the person who refused to stop. He and the managers escorted the person to an office. The person attempted to leave, and a manager blocked the door and there was a scuffle with the manager. Applicant stated he felt a sense of duty to come to the aid of the manager who was asking for help. He testified that he knew the policy not to physically touch a person, but he felt it was the right thing to do to help the manager when he requested help. He grabbed the person, pulled him off the manager, and forcibly placed him on a bench. The office door was then opened, and the person rushed to leave when he was met by police. Applicant was fired the next day for violating store policy. The two managers were fired from that store but were relocated to a different store. Applicant testified that the store manager who had fired him wanted to rehire him, but he already had a new job. (Tr. 84-87, 172-179)

Throughout the hearing, Applicant repeatedly could not remember or recall many facts. His veteran's disability rating does not reflect a traumatic brain injury or other issues associated with memory loss. Although some of his memory issues may be attributed to his PTSD, as to some, he appeared more evasive and not entirely forthcoming.

Applicant provided his enlisted record and performance evaluation from 2016; documents from the Department of Veterans Affairs; a list of medications he is prescribed; his resume; an article about service in Macedonia; award certificates; training certificates; and photographs of him and his family. Also submitted was a letter from his wife, a character letter mentioned previously from his former lieutenant (now major), and a letter from the director of the office where he presently works. The director stated that Applicant's work is top-notch and there has never been a security incident. His work ethic, attention to detail, and personal behavior are among the most professional he has observed in his 32 years of federal service. (AE H-R)

Applicant was awarded the following personal awards: Bronze Star; Meritorious Service Medal; Army Commendation Medal (five awards); Army Achievement Medal (six awards) Joint Meritorious Unit Citation; Presidential Unit Citation (two awards); NATO Medal and the Combat Medical Badge. He also earned numerous campaign and other ribbons. (AE A, AE P)

Any derogatory information that was not alleged in the SOR will not be considered for disqualifying purposes, but may be considered when making a credibility determination, in applying mitigating conditions, and in a whole-person analysis.

Policies

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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. Directive ¶ E3.1.15 states an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk 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.

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 F: Financial Considerations

The security concern relating to the guideline 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.

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

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

Applicant has a long history of financial issues and has accumulated delinquent debts for many years. Despite being aware for many years of the debts, he indicated he did not have the money to pay them and did not intend to pay them. The debts alleged in the SOR remain unresolved. The above disqualifying conditions apply.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. The following mitigating conditions under AG ¶ 20 are potentially applicable:

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

Applicant has a long history of financial issues. None of the delinquent debts alleged in the SOR have been resolved. They are recent and ongoing. He has been aware of these debts and financial obligations for many years. He said his wife handled the finances while he was deployed and in the service, but in 2014 he took over handling his finances. He has been retired from the military since 2017. He receives retirement pay, disability pay, and a salary from his job. He was interviewed by a government investigator in 2019, and he said he did not have the money to pay his debts and did not intend to do so. Perhaps while he was in the service and was deployed numerous times, the

circumstances that caused his financial problems were beyond his control. However, that has not been the case since at least 2014. I cannot find that future financial problems are unlikely to recur. His indifference to his finances raises additional concerns. He received the SOR in July 2021 and it was not until March 2023 that he entered into a payment plan to address some of his debts, but only two were from the SOR.

Applicant has received financial counseling several times, including most recently with his enrollment in a payment program. However, there is insufficient evidence to conclude there are clear indications that his problem is resolved or under control considering he has received financial counseling in the past but did not follow through on the advice, and he did not include most of the SOR debts in his payment plan. In addition, at the time of hearing, he had not made his first payment on his payment plan with CC. AG ¶¶ 20 (c) and 20(d) do not apply.

Applicant may have a legitimate dispute with the landlord and debt alleged in SOR ¶ 1.a. However, he did not provide documented evidence of his attempt to dispute it or resolve it. The debt is included in his payment plan, but that has not been executed yet and it is premature to conclude it is being resolved. AG ¶ 20(e) does not apply.

Guideline E: Personal Conduct

AG ¶ 15 expresses the security concerns for personal conduct:

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 security clearance process or any other failure to cooperate with the security clearance process. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I find the following potentially applicable:

(c) credible adverse information in several adjudicative issue 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 the individual may not properly safeguard classified or sensitive information; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a

foreign intelligence entity or other individual group. Such conduct includes:
(1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

There is substantial evidence that in 2010 while serving in the military, Applicant was charged with wrongful sexual contact, and cruelty and maltreatment; that he was arrested and charged in September 2014 with domestic violence-harassment; that he was arrested and charged with indecent exposure in October 2014; and that he was fired from his employment in April 2019 for physically restraining a customer in violation of the company's policy. The above disqualifying conditions apply.

After the Government produced substantial evidence of those disqualifying conditions, the burden shifted to Applicant to prove mitigation. The following mitigating conditions under AG ¶ 17 are potentially applicable to the disqualifying security concerns based on 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; and

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

The evidence supports that Applicant was charged with wrongful sexual contact, and cruelty and maltreatment. He went to a court-martial, but the results of trial were not provided. He stated the charges were dismissed and based on the lack of evidence to the contrary they likely were. He denied he committed the offenses. This alleged incident took place more than 13 years ago. So much time has elapsed, and it happened under unique circumstances that it is unlikely to recur. Applicant continued to serve, deploy, retire, and received an honorable discharge. AG ¶ 17(c) applies.

Applicant was suffering from PTSD after returning from multiple combat deployments. He had a domestic altercation with his wife. He admits the altercation and that he was somewhat out of control at the time. The domestic violence charges were dismissed when he completed the terms of a deferred prosecution, which included domestic violence class and anger management classes. He separated from his wife for

a time, and they reconciled. His stepdaughter accused him of indecent exposure. He credibly testified that the judge questioned each of his seven children separately and then the charge was dismissed. I do not have any evidence to show the case was otherwise adjudicated. Applicant said that the incident has never been spoken about. He believed his stepdaughter was retaliating against him due to the domestic violence incident. I believe there was enough evidence at the time for the police to charge him and they did so. AG ¶ 17(f) does not apply. However, Applicant has been in regular counseling, which continues presently, and has not had any other incidents since 2014. He has learned coping skills. AG ¶¶ 17(c), 17(d) and 17(e) apply.

Applicant failed to follow company policy when he physically restrained a shoplifter where he was employed. The evidence supports that this incident happened under unique circumstances. Although it was against company policy, Applicant was responding to a plea for help from his manager who was grappling with the suspect, which was likely how most people would respond. It has been almost four years since this incident, and it does not cast doubt on his current reliability, trustworthiness, or good judgment. AG ¶17(c) applies.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F and E in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline, but some warrant additional comment.

I have considered Applicant's extraordinary service to our country in combat operations, numerous deployments, and commitment to his fellow soldiers. He served honorably, and I have given considerable weight to his military service. However,

Applicant has failed to act responsibly for years regarding his finances. He has not met his burden of persuasion. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline F, financial considerations. He mitigated the security concerns under Guideline E, 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
Subparagraphs 1.a-1.m:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a-2.d:	For Applicant

Conclusion

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

Carol G. Ricciardello
Administrative Judge