



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



In the matter of:)
)
) ISCR Case No. 22-02211
)
Applicant for Security Clearance)

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: Mark Peebles, Esq.

08/04/2023

Decision

HARVEY, Mark, Administrative Judge:

Guideline F (financial considerations) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On November 19, 2021, Applicant completed an Electronic Questionnaires for Investigations Processing or security clearance application (SCA). (Government Exhibit (GE) 1) On December 12, 2022, the Defense Counterintelligence and Security Agency (DCSA) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A, the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

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

January 21, 2023, Applicant provided a response to the SOR, and he requested a hearing. (HE 3)

On February 16, 2023, Department Counsel was ready to proceed. On March 7, 2023, the case was assigned to me. On April 20, 2023, Applicant's counsel added the hearing date of May 12, 2023, to his calendar. (HE 1A) On April 28, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice setting the hearing for May 12, 2023. (HE 1B) The hearing was held as scheduled using the Microsoft Teams video teleconference system. (*Id.*)

During the hearing, Department Counsel offered 14 exhibits into evidence, and Applicant did not offer any documents into evidence. (Tr. 14-17; GE 1-GE 14) Department Counsel provided a copy of Applicant's May 8, 2023 filing under Chapter 13 of the Bankruptcy Code. (GE 15) All proffered exhibits were admitted into evidence without objection. (GE 1-GE 15) On May 22, 2023, DOHA received a copy of the transcript. Applicant provided four groups of documents, which were admitted without objection. (Applicant Exhibit (AE) A-AE D) On June 20, 2023, the record closed. (Tr. 14, 47)

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

Findings of Fact

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a through 1.m, 1.p, and 1.r through 1.w. (HE 3) He denied the allegations in SOR ¶¶ 1.n, 1.o, and 1.q. He also provided mitigating information. (*Id.*) His admissions are accepted as findings of fact.

Applicant is a 57-year-old software developer. (Tr. 37, 39) A DOD contractor has employed him since February 2021. (Tr. 34; GE 1) In 1983, he graduated from high school. (GE 1 at 11) In 1987, he received two bachelor's degrees—one in computer science and one in mathematics. (Tr. 41) He has not served in the military. (GE 1 at 17) Applicant cohabitated with the same person since 2002, and they married in 2015. (Tr. 39) He has three adult children and two adult stepchildren. (Tr. 39-40) He has lived in the same residence since 2003. (Tr. 40)

Financial Considerations

Applicant had the same employment from April 2012 to March 2020. (Tr. 34) His annual salary during this time was about \$85,000. (Tr. 36) He was unemployed from March 2020 to February 2021. (Tr. 34) His current annual salary is about \$130,000. (Tr. 36) His spouse had some periods of unemployment, and she was in a serious accident. (Tr. 33) He was unsure of his spouse's annual income. (Tr. 42) He did not disclose any recent self-employment on his November 19, 2021 SCA. (GE 1 at 12-13) He was self-employed about 10 years ago. (GE 2) He told the Office of Personnel Management (OPM) investigator that he believed the creditors were not seeking payment for charged-off

debts, and he did not believe he owed those creditors anything. (GE 2 at 15) He was unsure if he would contact the creditors with charged-off debts. (*Id.*)

Applicant listed 21 financial issues on his November 19, 2021 SCA. On multiple accounts he said, “I attempted to work out a payment plan with them but could not come to an agreement and/or could not keep up with it. Or I just forgot about paying them off when I did have the money while the account was still open.” (GE 1) The SOR alleges the following financial concerns:

SOR ¶ 1.a alleges Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in about November 2004, and his debts were discharged in about June 2006. Applicant said he filed for bankruptcy because he was unemployed. (Tr. 23-24)

SOR ¶ 1.b alleges Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in about January 2008, and his bankruptcy was dismissed in about December 2009. He was unsure about why he filed for bankruptcy. (Tr. 23) It may have been because of employment issues for himself or his spouse and to ensure he was able to retain his home. (Tr. 23-25) He obtained a mortgage modification, and he was able to retain his home. (Tr. 25)

SOR ¶ 1.c alleges Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in about May 2015, and his bankruptcy was dismissed in about February 2016. (GE 1 at 38) Applicant filed the Chapter 13 to enable him to receive a mortgage modification, and then once the mortgage modification was approved, he had the bankruptcy dismissed. (Tr. 25) His mortgage arrearage was about \$73,000. (GE 1 at 38)

SOR ¶ 1.d alleges Applicant has a delinquent tax debt owed to the Federal Government of about \$15,000. (GE 1 at 40) Applicant said his tax debt originated in 2009; he was making or had made some monthly payments; he was unsure of the amount owed; and the IRS withheld some funds. (Tr. 28-29) As of the date of his hearing, he had not filed his federal or state income tax returns for tax years (TY) 2021 or 2022. (Tr. 30) He thought his spouse had filed their tax returns. (Tr. 33) He indicated in his November 11, 2021 SCA that he had a payment plan in the past with the IRS; however, he did not have a current payment plan. (GE 1 at 40)

On May 25, 2023, Applicant filed his TY 2021 federal and state income tax returns. (AE A) All figures on tax returns are rounded to nearest \$1,000. For TY 2021, his adjusted gross income (AGI) was \$277,000; his taxable income was \$218,000; and his taxes owed were \$24,000. (*Id.*) He owed \$9,000 in state income taxes for TY 2021. (*Id.*)

On May 25, 2023, Applicant filed his TY 2022 federal and state income tax returns. (AE B) For TY 2022, he had a nonpassive loss of \$362,000 on his business. His AGI on his TY 2022 federal income tax return is negative \$53,000; his taxable income is zero; and his taxes show a \$21,000 refund. (*Id.*) He requested a \$6,000 state income tax refund for TY 2022. (*Id.*) He did not provide details about his \$362,000 nonpassive loss on his business.

SOR ¶ 1.e alleges Applicant has a charged-off debt for about \$32,597. SOR ¶ 1.f alleges he has an account placed for collection for about \$16,293. SOR ¶ 1.g alleges he has a charged-off debt for about \$2,347.

SOR ¶ 1.h alleges Applicant has a charged-off debt for about \$2,299. SOR ¶¶ 1.i, 1.j, and 1.k allege he has three accounts placed for collection for about \$1,506, for about \$1,367, and for about \$1,206. SOR ¶ 1.l alleges he has a charged-off debt for about \$1,045. SOR ¶ 1.m alleges he has a charged-off debt for about \$997.

SOR ¶ 1.n alleges Applicant has an account placed for collection for about \$905. In his SOR response, he denied responsibility for the SOR ¶ 1.n debt. (HE 3) SOR ¶ 1.o alleges he has a medical account placed for collection for about \$891. In his SOR response, he denied responsibility for the SOR ¶ 1.o debt. (*Id.*)

SOR ¶ 1.p alleges Applicant has a charged-off debt for about \$728. SOR ¶ 1.q alleges he has a medical account placed for collection for about \$585. In his SOR response, he denied responsibility for the SOR ¶ 1.q debt. (HE 3)

SOR ¶¶ 1.r and 1.s allege Applicant has charged-off debts for about \$446 and for about \$258. SOR ¶ 1.t alleges he has an account placed for collection for about \$146. SOR ¶ 1.u alleges he has a charged-off debt for about \$142.

SOR ¶ 1.v alleges Applicant is past due in the amount of about \$65,000 on a \$350,408 mortgage. (GE 3) His monthly payment was about \$1,900, and he did not make his payments for about 30 months. (Tr. 42) Foreclosure proceedings were filed against him in 2004, 2007, 2012, 2014, and 2019. (Tr. 32) SOR ¶ 1.w alleges a creditor entered a judgment against him for \$334 in 2021.

On May 8, 2023, Applicant filed for bankruptcy protection under Chapter 13 of the Bankruptcy Code, which was five days before his hearing. (Tr. 21; GE 15) His spouse was not included in the bankruptcy filing. (*Id.* at 3) He estimated his liabilities to be \$500,000 to \$1 million. (*Id.* at 8) He received financial counseling within 180 days of his bankruptcy filing. (*Id.* at 7) Applicant's spouse is not a debtor on his mortgage. He wanted a mortgage modification, and his current mortgage lender was not cooperating with his request for a modification. (Tr. 26) He did not intend to use the Chapter 13 to have his debts discharged. (Tr. 26) He listed 19 unsecured debts on his bankruptcy filing, including state taxes of \$500 and federal taxes of \$10,000. (GE 15 at 25-32) The largest nontax debts listed on the bankruptcy filing were for SOR ¶¶ 1.g (\$2,347) and 1.h (\$2,594). (GE 15 at 30-31) SOR ¶ 1.e alleges Applicant has a charged-off debt for about \$32,597, and SOR ¶ 1.f alleges he has an account placed for collection for about \$16,293. He said he intended to include all of the SOR debts in his bankruptcy filing. (Tr. 27)

Applicant was required to file his tax returns for TYs 2021 and 2022 before the bankruptcy court would accept his bankruptcy filing as complete. (Tr. 32) He disclosed (rounded to nearest \$1,000) gross monthly income of \$12,000; monthly income of \$7,000 after taxes were withheld; monthly expenses of \$3,000; and net monthly income of \$4,000. (GE 15 at 36-39)

Applicant provided checking account statements for his business, which are summarized in the following table. (AE C) However, he did not explain how the checking account statements showed he was financially responsible or how the account credits and debts resulted in the substantial tax losses in TY 2022.

Time Period	Credit Transactions and Amounts	Debit Transactions and Amounts
July 2022 to June 2023	15-\$15,000	85-\$17,000
December 2021-July 2022	46-\$29,000	54-\$11,000
July 2021-December 2021	16-\$14,000	84-\$16,000
May 2021-July 2021	0	7-\$1,000

Applicant provided credit union monthly statements for February 28, 2021, to May 31, 2023; however, he did not highlight any payments to any SOR creditors or explain the significance of the statements. (AE D) He wrote numerous checks during the period February 28, 2021, to May 31, 2023. (AE D)

Policies

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

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7.

Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

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

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

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

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

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

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

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

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

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

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

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;

(f) the affluence resulted from a legal source of income; 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.

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

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

Applicant provided some important mitigating information. He and his spouse were unemployed or underemployed. His spouse was in a serious accident. For TY 2022, he had a nonpassive loss of \$362,000 on his business. These circumstances were beyond their control and adversely affected his finances. For example, for his nonpassive loss, he did not describe the source of these funds, whether additional debt resulted, and the cause of the loss. He did not provide sufficient details to assess the magnitude of the adverse effect on his overall finances or whether these negative effects on his finances resulted in the delinquent debt detailed in the SOR. Moreover, "[e]ven if applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the judge could still consider whether applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005); ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999)).

SOR ¶ 1.a alleges Applicant filed for bankruptcy under Chapter 13 of the Bankruptcy Code in about November 2004, and his debts were discharged in about June 2006. Applicant said he filed for bankruptcy because he was unemployed. He denied

responsibility for the debts in SOR ¶¶ 1.n, 1.o, and 1.q in his SOR response. I have credited Applicant with mitigating the financial issues in SOR ¶¶ 1.a, 1.n, 1.o, and 1.q.

Applicant disclosed many of his SOR debts on his SCA and during his OPM interview. He did not provide a detailed plan about how he planned to address or resolve his debts in his SCA, during his OPM interview, or at his hearing.

Another component under AG ¶ 20(b) is whether Applicant maintained contact with creditors and attempted to negotiate partial payments to keep debts current. He did not prove that he maintained contact with the SOR creditors over the years or that he worked diligently to timely pay his debts.

The SOR does not allege that Applicant filed for Chapter 13 bankruptcy protection the week before his security clearance hearing. On May 25, 2023, Applicant filed his TY 2021 federal and state income tax returns. For TY 2021, his AGI was \$277,000; his taxable income was \$218,000; and his federal income taxes owed were \$24,000. He owed \$9,000 in state income taxes for TY 2021. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

Id. (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014)). The non-SOR allegations will not be considered except for the five purposes listed above.

Most of Applicant's SOR debts are charged off or eventually will not appear on his credit report or both. "[T]hat some debts have dropped off his [or her] credit report is not meaningful evidence of debt resolution." ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016) (citing ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015)). The Fair Credit Reporting Act requires removal of most negative financial items from a credit report seven years from the first date of delinquency or the debt becoming collection barred because of a state statute of limitations, whichever is longer. See Title 15 U.S.C. § 1681c. Debts may be dropped from a credit report upon dispute when creditors believe the debt is not going to be paid, a creditor fails to timely respond to a credit reporting company's request for information, or when the debt has been charged off.

Excluding his Chapter 13 bankruptcy filing in 2004, which was based on unemployment, Applicant filed for bankruptcy protection under Chapter 13 of the Bankruptcy Code in 2008, 2015, and 2023. He said the purpose for filing bankruptcy was to stop the foreclosure on his residence and encourage the mortgage lender to agree to

a mortgage modification. He also said he had not made his mortgage payment for about 30 months prior to his most recent Chapter 13 bankruptcy filing. He did not provide enough information about why he was unable to make his mortgage payments to establish his good faith. Applicant has state and federal income tax debts. He has owed delinquent taxes since about 2009. He may intend to pay his taxes at this point; however, the Appeal Board clarified that even in instances where an “[a]pplicant has purportedly corrected [his or her] federal tax problem, and the fact that [applicant] is now motivated to prevent such problems in the future, does not preclude careful consideration of [a]pplicant’s security worthiness in light of [his or her] longstanding prior behavior evidencing irresponsibility” including a failure to timely file federal and state income tax returns or to pay federal or state income taxes when due. See ISCR Case No. 15-01031 at 3 & n.3 (App. Bd. June 15, 2016) (characterizing “no harm, no foul” approach to an applicant’s course of conduct and employing an “all’s well that ends well” analysis as inadequate to support approval of access to classified information with focus on timing of filing of tax returns after receipt of the SOR).

Applicant received financial counseling with each of his bankruptcies, and he provided a budget as part of the bankruptcy process. Applying the Appeal Board’s jurisprudence, he did not prove that he was unable to make greater progress sooner by establishing payment plans with his SOR creditors, including federal and state income tax authorities. Under all the circumstances, he failed to establish mitigation of financial considerations security concerns.

Whole-Person Concept

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

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

Under AG ¶ 2(c), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall common-sense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is a 57-year-old software developer. A DOD contractor has employed him since February 2021. In 1987, he received two bachelor's degrees—one in computer science and one in mathematics. He has lived in the same residence since 2003.

Applicant provided important financial considerations mitigating information. He provided multiple reasons for his financial difficulties. He has provided contributions to his employers and the national defense.

The evidence against grant of a security clearance is detailed in the financial considerations section, *supra*, and this evidence is more substantial at this time. Applicant did not establish that he was unable to make greater progress sooner resolving his delinquent debts. His failure to take prudent responsible actions raise unmitigated questions about his reliability, trustworthiness, and ability to protect classified information. See AG ¶ 18.

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

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards establishment of a track record of timely paying his debts, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate financial considerations security concerns.

Formal Findings

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b through 1.m:	Against Applicant
Subparagraphs 1.n and 1.o:	For Applicant
Subparagraph 1.p:	Against Applicant
Subparagraph 1.q:	For Applicant
Subparagraphs 1.r through 1.w:	Against Applicant

Conclusion

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

Mark Harvey
Administrative Judge