



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



In the matter of:)	
)	
[Name Redacted])	ISCR Case No. 19-02939
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison O’Connell, Esq., Department Counsel
For Applicant: Christopher Snowden, Esq.

08/10/2023

Decision

HOGAN, Erin C., Administrative Judge:

Applicant did not mitigate the financial considerations and personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On September 11, 2020, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations), and Guideline E (personal conduct). (Note: Due to a clerical error, the case number on the SOR is incorrect, instead of 20-02939, it is 19-02939, as reflected above. The SOR has also been amended accordingly. Applicant provided a response to the SOR dated December 11, 2020 (Answer), and requested a hearing before an administrative judge. The case was assigned to another administrative judge on March 3, 2022. The case was transferred to me on November 8, 2022.

The case was originally scheduled for hearing on January 23, 2023. The hearing was continued until February 28, 2023. The hearing was continued a second time when Applicant retained counsel. The hearing was re-scheduled for June 21, 2023, and was convened on that date via video-conference. At the hearing, Government Exhibits (Gov) 1 through 20 were admitted. Applicant testified and Applicant Exhibits (AE) A – D

were admitted without objection. I left the record open until July 10, 2023, to allow Applicant to submit additional documents. At Applicant's request, the date was extended until July 20, 2023, for him to submit additional documents. He timely submitted AE E-K, which were admitted in evidence without objection. I received the transcript (Tr.) on July 3, 2022.

Findings of Fact

Applicant is a 42-year-old employee of a government contractor. He has worked for his current employer for the past year and a half. He has worked for various government contractors in the information technology (IT) career field since about 2008. Applicant states he was first granted a security clearance in approximately 2008. He claims he has never had issues with holding a security clearance with the exception of the current security clearance proceeding. (Tr. 40-41) He was awarded a high school diploma in 2000 and has earned several IT certifications during his career. He married in 2017, but he and his wife separated about eight months ago. He has two children, a son, age 12, and a daughter, age 10, from previous relationships. (Tr. 32-35, 40-41; Gov 1; AE A; AE B; AE J)

On May 4, 2018, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP or "security clearance application"). A subsequent background investigation raised security issues under Guideline F – Financial Considerations, and Guideline E – Personal Conduct.

Guideline F – Financial Considerations

The SOR alleged eight delinquent debts. They are summarized below.

SOR ¶ 1.a: \$274 medical account placed for collection. Applicant denies this debt. He does not recognize it. I find for Applicant with respect to this allegation. The pleading is not sufficient enough to give him adequate notice of the medical debt. The medical debt does not appear on the May 2023 credit report, which is the most recent credit report in the record. (Answer to SOR; Tr. 43-44; Gov 3; Gov 5 at 1)

SOR ¶ 1.b: \$1,831 debt owed to a credit union that was charged off. Applicant denied this debt in his answer to the SOR. He did not recognize the debt. During the hearing, Applicant admitted this was a personal loan. He became aware of this debt when he received the SOR. On June 19, 2023, Applicant entered into a payment plan with a law firm. He agreed to make the first payment on June 23, 2023. He is to make monthly payments due on the 28th of each month after the first payment. He will pay \$300 a month towards this debt. He first reached out to the credit union about three weeks before the hearing. In his post-hearing submissions, Applicant provided receipts that he has made three payments of \$150 each towards this payment plan on June 23, 2023, July 13, 2023, and July 20, 2023. (Answer to SOR; Tr. 44-47; Gov 5 at 1; Gov 6 at 2; Gov 7 at 6; AE C; AE H)

SOR ¶ 1.c: \$261 debt owed to a credit union that was charged off. In his response to the SOR, Applicant denied this debt because he did not recall it. When he reached out to the credit union, they had no record of this debt. The August 2021 credit report indicates that this debt was a paid charge off. I find SOR ¶ 1.c for Applicant. (Answer to SOR, Tr. 48- 49; Gov 3 at 1; Gov 4 at 3; Gov 6 at 2; Gov 7 at 6)

SOR ¶¶1.d, 1.f and 1.g alleged three delinquent child support debts in the respective amounts of \$2,461, \$14,985 and \$12,667 that were all placed for collection. In his answer to the SOR, Applicant admits the allegations in SOR ¶¶1.d and 1.f. He denies the allegation in SOR ¶1.g. He claims he makes two child support payments – one for his daughter and one for his son. He claims he only owes about \$2,000 in arrears for his son. He owes a little more for his daughter. Applicant claims the mother of his daughter overstated his income by \$15,000. He currently pays \$860 monthly child support for his daughter; \$800 of which is the monthly support and \$60 goes towards arrears. His monthly child support for his son is about the same. (Tr. 53 – 55; Gov 6 at 2)

Applicant was given the opportunity to provide documents that show his history of child support payments for each child as well as the current child support balances for each child. He did not provide any documents showing this. His pay statement from his current employer shows that \$191.23 is deducted each pay period for court-ordered child support. Applicant testified during the hearing that his paycheck is garnished for his son's child support. He provided no further proof of his history of child support payments for either child. I cannot conclude he is timely paying his child support obligations for each child without more specific documentation. (Tr. 53-60, 105-109; Gov 6 at 2; AE E)

SOR ¶ 1.e: \$22,945 delinquent automobile debt that has been charged off by Auto Dealer #1. Applicant purchased this car after he expected his mother to take over the payments for the loan on the automobile that is alleged in SOR ¶ 1.h. He fell behind in payments and returned the car to Auto Dealer #1. He received notice about the deficiency judgment in 2017 or 2018 after the dealer sold the car. Auto Dealer # 1 recently offered to accept a lump sum payment of \$11,000 or three payments of \$7,000 each. Applicant testified that he can't afford the payments. The last time he spoke to Auto Dealer # 1 was the Monday before the hearing. (Tr. 60-64, 112-113; Gov 6 at 2; Gov 7 at 4) The delinquent automobile loan debt remains unresolved.

SOR ¶ 1.h: \$17,020 automobile loan that was charged off by a credit union. Applicant's mother was unable to get an automobile loan. Applicant agreed to give his mother his car as long as she made the payments on the loan. Applicant then bought the car that is mentioned in SOR ¶ 1.e. After a couple months, Applicant's mother failed to make the payments. Applicant turned the car in because he could not afford to make payments on two cars. He thought it was a profit-and-loss write off. He never received a 1099(c) form showing cancellation of the debt by the creditor. He initially claimed the credit union never contacted him about the delinquent car loan. Under cross-examination, he admitted that he received a notice that he owed a deficiency on the loan, but never paid it. The debt is unresolved. (Tr. 49-52, 109-112; Gov 7 at 6-7)

Applicant has had several periods of unemployment. He was terminated from one employer in July 2021. Applicant testified that he was laid off for a period of four months in 2020. He was unemployed for over a year after his 2008 arrest. He served three months in jail and lived in a halfway house for nine months. (Tr. 36-39, 100-102)

Applicant purchased another car in 2020. The May 2023 credit report lists the automobile loan for this car as charged off. He testified that his estranged wife has the car and he believed that she was making the payments on the car. (Tr. 113-114; Gov 3 at 5) Applicant testified that he is not sure about the status of his federal taxes, but he does have two state income tax liens in the amount of \$5,000. Applicant reached out to the state to enter into a payment agreement a few weeks before the hearing. After the hearing, he provided a repayment agreement. He agreed to pay \$168 monthly towards his delinquent state tax debt starting on July 19, 2023. His credit card is charged each month. This debt appears to be from the 2017 tax year. The state filed two tax liens. One lien has a balance of \$2,920.03. The other lien has a balance of \$5,024.61. (Tr. 115-116; Gov 9; Gov 10: AE I)

The 2020 delinquent car loan and the state tax liens are not alleged in the SOR. I will not consider them under matters of disqualification. I will consider them for purposes of extenuation and mitigation. Conduct not alleged in the SOR may be considered to assess Applicant's credibility; to decide whether a particular adjudicative guideline is applicable; to evaluate evidence of extenuation, mitigation, or changed circumstances; to consider whether Applicant has demonstrated successful rehabilitation; or as part of a whole-person analysis. ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)

Applicant's net monthly income is \$7,200. His monthly expenses are approximately \$5,530. The expenses include \$1,700 for child support. The only debts he listed were the debt repayment plan with the law firm for the credit union debt and the state tax lien debt. The total for that amount was \$500.00. He listed a net monthly remainder of \$2,400. However, after subtracting his monthly expenses from his monthly income, Applicant actually has \$1,170 remaining each month. (AE K)

On June 12, 2023, Applicant completed four online financial courses, including Road Map to Financial Freedom; Identity Theft Protection; Power of Paycheck Planning; and Understanding Credit Reports. (AE A).

Guideline E – Personal Conduct

Under Personal Conduct, the SOR alleged 12 allegations.

SOR ¶ 2.a: Cross alleges all of the allegations under Guideline F, SOR ¶¶ 1.a – 1.h. I find for Applicant under this allegation. The issues related to SOR ¶¶ 1.a – 1.h are more appropriately addressed under the Financial Considerations concern.

SOR ¶ 2.b: In September 2002, Applicant was arrested and charged with (1) Possession with Intent to Distribute Marijuana (two counts), (2) Carry Pistol without a

License – 1st Offense, and (3) Unregistered Ammunition. Applicant was found guilty of two counts of Possession with Intent to Distribute Marijuana and sentenced to 24 months incarceration, three years supervised release and three years probation. Applicant admits this offense. He testified that his gun was registered in State 1. He drove to a nearby state (State 2) to visit his father. The police stopped him and discovered the gun in his possession. Applicant claims the jail time was suspended. He was on probation for three years, which he successfully completed. (Tr. 66-69; Gov 14 at 4)

Under cross examination, Applicant testified he was not sure he possessed marijuana during the arrest even though he was initially charged with Possession with Intent to Distribute Marijuana. He said the first time he used marijuana was in high school around 1999. The last time he used marijuana was in 2019. He used marijuana occasionally at a get togethers or parties. He used marijuana approximately every two or three months. When asked if there was a time when he did not use marijuana, Applicant testified he did not use marijuana when he was on probation for the 2002 and 2008 offenses and around 2013-2014. (Tr. 119-121; Gov 2 at 7) Applicant's marijuana use was not alleged in the SOR. It will not be considered for disqualification purposes, but will be considered under matters of extenuation and mitigation.

SOR ¶ 2.c: In May 2007, a temporary restraining order (TRO) was issued against Applicant. He admits this occurred. Applicant's two sisters reached out to him because their father's new girlfriend was not treating them well. They asked him to talk to their father about the mistreatment. Applicant went to visit his sisters' father to talk with him about the issue. His sister's father filed the TRO against him, after Applicant confronted him about the father's girlfriend mistreating his sisters. The TRO was later dismissed because neither party showed up in court. (Tr. 70-72, 121-124; Gov 12)

SOR ¶ 2.d: In November 2008, Applicant was arrested and charged with (1) Carry Pistol without a License; (2) Unlawful Possession of Firearm – Felony,(3) Possession of Unregistered Firearm, and (4) Unlawful Possession of Ammunition. Applicant plead guilty and was sentenced to 18 months confinement with six months confinement suspended; three years supervised release and one year of probation. Applicant testified he served three months confinement and lived in a halfway house for nine months. He also believed he served probation between one to three years. Applicant testified that he always carried a firearm on his person after he was shot six times in 1999 during a robbery. He felt the need to carry protection. He no longer carries a firearm for protection. (Tr. 72-75, 124-127; Gov 13; Gov 14 at 5)

SOR ¶ 2.e: Applicant was arrested and charged with (1) Fail To Obey Reasonable/Lawful Order, (2) Hindering/Obstructing, (3) Resist/Interfere with Arrest. Applicant says he was pulled over by the police. He provided his driver's license, vehicle registration, and proof of insurance. When the police asked for consent to search his car, he refused to provide consent. He states the charges were dropped because it was "a bogus charge." He claims he never retained a lawyer and did not have to appear in court. (Tr. 77-79, 127-128; Gov 14 at 7)

SOR ¶ 2.f: In February 2012, a Temporary Protection Order (TPO) was issued against Applicant. This involved the mother of his son. They got into an argument because he was not allowed to see his son. There are differing recollections of what happened during the argument. Applicant claims his son's mother swung a key ring at him and he pushed her in a reflexive response. His son's mother claimed he hit her in the right eye causing her to fall and hit her head on the concrete steps. He claims she fell accidentally. After the incident, he got in his car and drove away. He never violated the TPO which eventually expired. In 2016 or 2017, the parties entered into a custody agreement. Applicant states they no longer argue now that they have a legal custody agreement. He does not see his son's mother often. Both parties keep their distance from each other. His son is 12 now. (Tr. 79-83, 128-130; Gov 15)

SOR ¶ 2.g: In July 2013, Applicant was arrested and charged with Assault and Battery. This incident involved an argument with his daughter's mother about not being able to see his daughter. Applicant showed up at his daughter's mother's house and they got into an argument. His daughter's mother claimed he spit in her face. Applicant denies this. She also claimed Applicant took her I-Pad and a purse from her home and poured motor oil inside her car. Applicant denies this conduct. They did not have a custody agreement. His daughter's mother has sole custody. Applicant claims he has attempted to file for custody, but is unable to because he does not know where the mother of his daughter lives. Although he was arrested, the charges were dropped because his daughter's mother did not appear on the court date. (Tr. 85-88, 131-133; Gov 16)

SOR ¶ 2.h: In August 2015, a final protective order was issued against Applicant. This involved an altercation with the mother of his son. He approached her at a business and confronted her. He began to threaten her and pulled her hair. He threatened to mess her up and kill her. Applicant eventually left the business and drove away. He denies pulling her hair and threatening her. (Tr. 89-90, 134-135; Gov 18)

SOR ¶ 2.i: In September 2015, Applicant received a citation for Possession of Drug Paraphernalia. He states he was pulled over and the police discovered a grinder and rolling papers. Applicant admits this. He states he could either pay the fine or show up in court to contest the citation. He showed up in court and the case was dismissed. He was not sure if he held a security clearance at the time of this incident. The arrest report indicates the police discovered a silver grinder, a mini bong pipe and 1.5 grams of marijuana. On December 7, 2015, Applicant appeared in court. The charges were placed on the STET docket. (Tr. 92, 136; Gov 17)

SOR ¶ 2.j: In December 2016, an interim protective order was issued against Applicant. This incident involved a woman he had been seeing. In her petition, the woman stated she was Applicant's ex-girlfriend. She claimed Applicant verbally and physically assaulted her over a one-year period. She tried to avoid contact with Applicant. On December 27, 2016, she was walking to her car around 10:30 pm when Applicant jumped out of the bushes and attacked her. She was able to get in her car and drive away. Applicant followed her a couple miles down the road. Applicant's former

girlfriend did not show up in court. He has not seen her since this incident. (Tr. 91-92, 136-137; Gov 19)

Applicant testified that he has not been involved in any physical altercations with anyone since the December 2016 incident. (Tr. 139)

SOR ¶ 2.k: Applicant is alleged to have falsified material facts on his May 4, 2018, e-QIP in response to **Section 26- Financial Record Delinquency Involving Routine Accounts**. More specifically, in response to “In the last seven (7) years, you had bills or debts turned over to a collection agency? In the last seven (7) years, you had any account or credit card, suspended, charged off, or cancelling for failure to pay as agreed? . . . In the last seven (7) years, you have been over 120 days delinquent on any debt not previously entered? . . . You are currently over 120 days delinquent on any debt.” Applicant answered “No” and is alleged to have deliberately failed to disclose the debts alleged in SOR ¶¶ 1.b, 1.c, 1.e, and 1.h. (Gov 1) Applicant testified that this was probably an oversight on his part. He said he was in a rush to complete his e-QIP application. (Tr. 95-98; Gov 1) I do not find Applicant’s explanation for omitting his delinquent debts on his May 2018 security clearance application to be credible.

SOR ¶ 2.l: Applicant is alleged to have falsified material facts on his May 4, 2018 e-QIP in response to “**Section 23- Illegal Use of Drugs or Drug Activity While Possessing a Security Clearance**. Have you EVER illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed?” Applicant answered “No” and is alleged to have deliberately failed to disclose his 2015 citation as set forth in SOR ¶ 2.i, above, or his possession of marijuana when he was arrested in November 2008 as alleged in SOR ¶ 2.d, above. Applicant testified that this was probably an oversight on his part. He said he was in a rush to complete his e-QIP application. He indicates that he did list the more severe felony charge. (Tr. 93- 98; Gov 1)

I find for Applicant with regard to SOR ¶ 2.l. My basis for doing so is there no information in the record that indicates Applicant possessed an active security clearance at the time of his felony arrest in 2008 or in 2015 when he received a citation for possession of drug paraphernalia. There is no evidence indicating Applicant was granted access to classified information other than his own assertions. While he worked as a contractor for government agencies, no information has been provided regarding whether he held an active security clearance in the past. In addition, Applicant listed the 2008 felony charge and conviction in response to section 22 – Police Record on the same May 2018 security clearance application, which provided adequate notice to the government regarding this arrest and conviction. (Gov 1 at 28)

Applicant’s testimony during the hearing, that he used marijuana on occasion, every three of four months since he was in high school up to 2019, raises additional falsification concerns regarding his answer on his May 4, 2018, security clearance application. Specifically, Section 23 – Illegal Use of Drugs or Drug Activity – Illegal Use of Controlled Substances – “In the last seven (7) years have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes

injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance” Applicant answered, “No”. During the hearing, Applicant admitted to occasional marijuana use beginning in high school to 2019. There were times he did not use marijuana. Within the past 7 years, he testified he did not use marijuana in 2013-2014. Apparently, he used marijuana illegally on numerous occasions between May 2011 to 2013 and from 2015 to 2019. He used marijuana before and after submitting his May 2018 security clearance application. While Applicant’s failure to disclose his marijuana use in response to the Section 23 question above, is not alleged in the SOR, it will be considered under matters of extenuation and mitigation.

Character Reference

Applicant’s supervisor provided a reference letter on his behalf. He states Applicant “consistently demonstrates a remarkable work ethic and commitment to his responsibilities.” He is always willing to take on additional tasks whenever needed. Applicant consistently displays honesty, dependability, and follows organizational policies and guidelines. He is meticulous when following security protocols, which significantly contributed to maintaining the confidentiality and security of sensitive information within the organization. His supervisor believes Applicant’s retention of his security clearance would be within the best interest of the organization. (AE D)

Policies

This case is adjudicated 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), which became effective on June 8, 2017.

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant’s eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in 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.”

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

With regard to DOD policy on marijuana use, the Director of National Intelligence (DNI) issued an October 25, 2014, memorandum concerning adherence to federal laws prohibiting marijuana use. In doing so, the DNI emphasized three things. First, no state can authorize violations of federal law, including violations of the Controlled Substances Act, which identifies marijuana as a Schedule I controlled drug. Second, changes to state law (and the laws of the District of Columbia) concerning marijuana use do not alter the national security adjudicative guidelines. And third, a person’s disregard of federal law concerning the use, sale, or manufacture of marijuana remains relevant when making eligibility decisions for sensitive national security positions.

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other

issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

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

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

The SOR alleged eight delinquent accounts, including two car repossessions, a consumer loan, and three delinquent child support accounts. The evidence is sufficient to raise the above disqualifying conditions.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(a) does not apply because Applicant's financial problems are ongoing and recent. He only recently began to resolve several of his delinquent debts. Most of the delinquent debts remain unresolved. After the SOR was issued, Applicant had another car loan charged off. He also had two unresolved state tax liens.

AG ¶ 20(b) partially applies. Applicant encountered periods of unemployment in the past. He also recently separated from his wife. Circumstances beyond his control adversely affected his finances. This mitigating condition is given less weight because I cannot conclude Applicant acted responsibly under the circumstances. Since 2017,

Applicant had two cars repossessed. He recently had another automobile loan charged off in February 2023. While Applicant appears to be attempting to resolve his delinquent child support accounts, he provided insufficient documentation to show his efforts to resolve the delinquent child support for both his son and his daughter.

AG ¶ 20(c) partially applies because Applicant attended and completed several on-line financial counseling courses. However, he completed these courses about a week before the hearing and his attempts to resolve his delinquent debt is too recent to conclude this his financial situation is being resolved or is under control. At the close of the record, Applicant had significant unresolved delinquent debt to include three automobile repossessions and an unresolved child support situation involving his two children. As a result, AG ¶ 20(c) is given less weight.

AG ¶ 20(d) applies with respect to the debt alleged in SOR ¶ 1.c. There is sufficient evidence to conclude this debt is resolved. Partial credit is given for Applicant's entry into a repayment agreement for the debt alleged in SOR ¶ 1.b and there is evidence that some child support is being deducted from his paycheck. He also entered into a repayment agreement for the unalleged state tax liens. I cannot give full credit for this mitigating condition because the repayment agreements began after the hearing was held and the documentation is insufficient to determine the history of payments and current status of his children's child support cases.

Applicant did not meet his burden of proof to mitigate the concerns raised under financial considerations. He has not furnished sufficient evidence to establish that his delinquent debts are being resolved or under control. In Guideline F cases, the DOHA Appeals Board has repeatedly held that, to establish his case in mitigation, an applicant must present a "meaningful track record" of debt repayments that result in debt reduction. See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007) While an applicant is not required to show that every debt listed in the SOR is paid, the applicant must show that he has a plan for debt resolution and has taken significant action to implement the plan. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006). From the record presented, Applicant has no plan in place and furnished no evidence, except for his recent entry into payment plans for the debt alleged in SOR ¶ 1.b and the unalleged state tax liens. After a full review of the entire record from an overall common-sense point of view, Applicant's ongoing financial problems have not been mitigated.

Guideline E, Personal Conduct

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

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to 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 conditions are 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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any 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.

Applicant deliberately failed to disclose his delinquent debts that were charged off on his May 2018 security clearance application. AG ¶ 16(a) applies to SOR ¶ 2.k with respect to the debts alleged in SOR ¶¶ 1.b, 1.c, 1.e and 1.h.

Personal Conduct concerns are raised because of Applicant's history of criminal offenses and citations from 2002 to 2015. (SOR ¶¶ 2.b, 2.d, 2.e, 2.g, and 2.i) Applicant also had four protective orders issued against him in 2007, 2012, 2015, and 2016. (SOR ¶¶ 2.c, 2.f, 2.h, and 2.j). While it has been years since Applicant's last criminal offense and last temporary protective order, his long history of offenses raises questions about his judgment, trustworthiness, reliability, lack of candor, unwillingness to comply with rules and regulations which indicate Applicant may not properly safeguard classified information. AG ¶ 16(c) applies.

As noted in the Facts section above, SOR ¶ 2.a is a cross-allegation, and as to SOR ¶ 2.i, falsification is not established. These allegations are found for Applicant.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following mitigating conditions potentially apply in Applicant's case:

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

(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 is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

AG ¶ 17(a) does not apply to Applicant's intentional failure to disclose his delinquent and charged-off debts on his May 2018 security clearance application. Applicant did not volunteer this information until he was confronted about the debts.

AG ¶ 17(c) does not apply because of Applicant's history of felony gun convictions, his marijuana-related offenses, and his history of misconduct, which resulted in persons in his life filing temporary protective orders against him on several occasions. Concerns about Applicant's reliability and trustworthiness also remain because of his history of marijuana use up to 2019 and his failure to disclose his marijuana use within the past 7 years when submitting his May 2018 security clearance application. While not alleged, Applicant's failure to disclose his marijuana use on his May 2018 security clearance application and his continued use of marijuana until 2019, after submitting his security clearance application shows a disregard for the rules and casts doubt on Applicant's reliability, trustworthiness and good judgment. Personal conduct security concerns are not mitigated.

Whole-Person Concept

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

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have considered Applicant's employment as a DOD contractor, the favorable reference from his supervisor, his IT certifications, and his attendance at financial counseling courses. I have incorporated my comments under Guidelines F and E in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the security concerns.

Formal Findings

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

Paragraph 1, Guideline F:

AGAINST APPLICANT

Subparagraphs 1.b, 1.d - 1.h:	Against Applicant
Subparagraphs 1.a., 1.c:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a, 2.l:	For Applicant
Subparagraphs 2.b - 2.k:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Erin C. Hogan
Administrative Judge