



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00488
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government:  
Sakeena Farhath, Esq., Department Counsel

For Applicant:  
*Pro se* (Hearing)  
Alan V. Edmunds, Esq., and Samir Nakhleh, Esq. (Post-Hearing)

05/17/2024

---

**Decision**

---

PRICE, Eric C., Administrative Judge:

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

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on February 17, 2021. On May 5, 2022, the Department of Defense Consolidated Adjudications Facility issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines F and E. The action was taken under Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016), for all adjudicative decisions on or after June 8, 2017.

On May 11, 2022, Applicant answered the SOR (Answer), and requested a hearing before an administrative judge. On November 15, 2022, Department Counsel issued Applicant an Amendment to the SOR. He submitted an undated response to the Amended SOR. (Answer to SOR amendment). I was assigned the case for hearing on October 16, 2023. On November 3, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing via video teleconference. I convened the hearing as scheduled on November 30, 2023.

My case management order and the Government's exhibit list are marked as Hearing Exhibits (HE) I and II. Department Counsel offered Government Exhibits (GE) 1 through 11. Applicant testified but offered no documentary evidence. The record was held open until December 14, 2023, to permit Applicant to submit documentary evidence. He timely submitted a notice of legal representation and an exhibit list I marked as HE III and IV, and Applicant's Exhibits (AE) A through I. There were no objections and GE 1 through 11 and AE A through I were admitted in evidence. DOHA received the hearing transcript (Tr.) on December 11, 2023.

### **Findings of Fact**

In Applicant's Answer to the SOR and the SOR Amendment, he admitted the allegations in SOR ¶¶ 1.a-1.f, 2.a-2.b, and denied the allegation in SOR ¶ 2.c, with explanations. His admissions are incorporated in my findings of fact.

Applicant is a 43-year-old engineer employed by a federal contractor since November 2023. He was previously employed as a marine electrician from 2007 to May 2015, from September 2017 to October 2019, and from December 2022 to November 2023. He worked as a fiber technician from October 2019 to January 2020, and in two shipyards from February 2020 to November 2020. He worked for several employers from November 2020 to November 2022. He was unemployed from about June 2015 to August 2017 because of an injury and was unemployed for about 12 months from about February 2020 until September 2022 while between jobs or because of COVID 19. He has held a security clearance since 2020. (GE 1-2; Tr. 44-54, 116-126; AE C-H)

Applicant attended Marine Corps boot camp in 2004 and was discharged with an entry level separation after failing a drug test. (Tr. 52, 74; GE 2 at 5) He attended about two years of junior college but has not earned a degree. He has cohabitated with a girlfriend since 2021 and has one child, age nine. (GE 1; Tr. 49-54, 126-127)

### **Financial Considerations**

The SOR alleges six delinquent debts totaling approximately \$47,380, including three charged-off vehicle loans totaling \$43,475. Applicant attributes his financial problems to unemployment and underemployment. After he was injured and unable to work in June 2015, he used his savings to pay his mortgage and other bills until his savings were depleted. His financial circumstances have significantly improved in the past

several years. He has saved more than \$160,000 by reducing expenses, selling a home in 2021, working overtime, sharing household expenses with his girlfriend, and staying in housing provided under his contract. He focused on paying smaller or more recent debt and rebuilding his credit score by opening credit accounts secured by funds he deposited. He has sufficient funds to resolve all debts alleged in the SOR and said he would do so, if necessary. He said he was confused about what to do because he understood payment of the debts may not resolve security concerns. He has not sought formal financial counseling but has discussed debt-related matters with his girlfriend's coworkers at a financial institution. (GE 1 at 18, GE 2, 7-9; Tr. 45-62, 80-83, 147-148)

The evidence concerning the specific SOR allegations is summarized below.

**SOR ¶ 1.a-1.b: medical accounts placed for collection of \$822 and \$658.**

Credit reports from April and October 2022 show both accounts were first delinquent in September 2016, and assigned for collection in April 2018 and August 2018, respectively. (GE 7 at 2, GE 8 at 2) Applicant admitted the allegations, said he contacted the creditor to set up a payment plan, and submitted evidence the creditor offered to settle both debts in May 2022. (Answer) He testified he paid the debts, and submitted documentary evidence he paid \$769 on August 18, 2023, to settle them. (Tr. 62; AE A at 1, AE B) These two debts are resolved.

**SOR ¶ 1.c: auto loan charged off for \$22,770.** Applicant admitted the allegation, said this loan was part of a class action lawsuit for predatory lending, submitted documentary evidence of a lawsuit, and said that he unsuccessfully attempted to negotiate a settlement. (Answer; Tr. 67-73) Credit reports from April 2020, October 2022 and November 2023 show the loan account was opened in September 2018, the last payment was in May 2019, and the account was charged off with a past-due balance of \$22,770. (GE 7 at 4, GE 8 at 6, GE 9 at 8)

Applicant testified that he signed the loan agreement and later contacted the creditor to renegotiate terms when he realized it included an interest rate of about 25 percent. The creditor refused. Applicant did not know what to do so he put the vehicle in storage. He did not recall if he had made a payment on the loan or if his last payment was in May 2019. He received about \$900 as his share of a class action lawsuit settlement with the creditor a year or two before the hearing. He discussed the loan with his girlfriend's coworkers at a financial institution and was confused about what to do because he understood if he started making payments or returned the vehicle it could harm his credit and restart a seven-year statute of limitations. (Tr. 67-73, 130-131)

After the hearing, Applicant submitted documentary evidence he reached a settlement agreement to satisfy the debt for \$10,000 on December 7, 2023, and that a payment in that amount was authorized on December 11, 2023. (AE A at 1, AE E)

**SOR ¶ 1.d: credit card charged off for \$3,245.** Applicant admitted the allegation, said this debt was for a credit card he used to pay bills while unemployed, and submitted a letter dated May 12, 2022, confirming an agreement to settle the debt for \$1,298, if paid

no later than June 13, 2022. (Answer; Tr. 60, 73-77) He testified that he made no effort to resolve this debt prior to 2022. He did not pay the settlement amount in June 2022 because he did not have sufficient funds to do so and because the debt was within a month of falling off his credit report due to age. He requested the settlement agreement because his then employer's facility security officer (FSO) told him it would resolve security concerns about this debt. (Tr. 63, 78-79) After the hearing he submitted a written statement in which he claimed this debt is no longer on his credit report and has been resolved or is up to date. (AE A) He submitted no evidence this debt has been resolved.

An April 2020 credit report shows the account was opened in 2005, last payment in July 2015, charged off with a past due balance of \$3,245, and "consumer disputes after resolution." (GE 7 at 5) This account is not reflected in credit reports from October 2022 and November 2023. (GE 8-9) This debt is not resolved.

**SOR ¶¶ 1.e-1.f: auto loans charged off for \$6,879 and \$13,826.** Applicant admitted the allegations, said he had "reached out to creditor . . . to work on a settlement option," and submitted two letters dated May 12, 2022, confirming agreements to settle the debts for \$2,751 and \$5,530, respectively, if paid no later than June 13, 2022. (Answer) An April 2020 credit report shows the accounts were opened in April 2015, with last payments in October 2016 and September 2018, and charged off with past-due balances of \$6,879 and \$13,826, respectively. (GE 7 at 5) Credit reports from October 2022 and November 2023 do not list the accounts. (GE 8-9)

Applicant testified that he cosigned the smaller loan for a friend with bad credit. He no longer has contact with her, had no idea where the vehicle was located, and will never make the mistake of cosigning a loan again. The larger loan was for a truck he purchased for approximately \$30,000 about a month before he was injured and unable to work. The vehicle was repossessed in 2017 or 2018. The loan was insured but the insurer did not make payments after he was hurt because of an ambiguous timing issue. He did not pay the settlement amounts in June 2022 because he did not have sufficient funds and because the debts were about to fall off his credit report due to age. He requested settlement agreements because his then employer's FSO told him that would resolve security concerns about the debts. (Tr. 45-46, 60, 72-81, 131-133, 147-148) After the hearing he submitted a written statement in which he claimed his debt to this creditor is no longer on his credit report and has been resolved or is up to date. He submitted no documentary evidence to support his claims. (AE A) These debts are not resolved.

## **Personal Conduct**

The SOR includes three allegations under this guideline. (SOR as amended)

**SOR ¶ 2.a: criminally charged in about 19 incidents from 1999 to 2019.** Applicant admitted the allegation and indicated "most charges [w]ere traffic violations [from] several years ago." (Answer) He testified as follows. He grew up in a small town in a well-to-do family with a fast car and a motorcycle, most charges were traffic violations and were ultimately dismissed. He left the small town and moved out of state, sold his

home there and his most recent involvement with law enforcement occurred when he was pulled over for speeding in about June 2019 while driving to a job interview. A Driving Under the Influence of alcohol (DUI) charge (2009) and two domestic violence charges (2003) were dropped. He was charged with two felonies for possession of marijuana (2011), one charge was reduced to a misdemeanor, and he successfully completed “a year or two of non-adjudicative probation,” then got a job in a shipyard and changed his life. (Tr. 86-87) He has not had any involvement with law enforcement since 2019 including while working at a remote island facility from December 2022 to November 2023. (Tr. 41-46, 82-88; Answer to SOR Amendment; AE A, I)

Records show 20 charges or citations arising from 15 incidents from April 2002 to April 2019. (GE 4-6) Applicant has been charged or cited with nine vehicular or traffic offenses including DUI of alcohol or possession of illegal drugs (August 2009). He pled guilty to driving on a suspended driver’s license (2003), speeding (2007, 2011, and May 2019), an improper driver’s license (2011) and his driver’s license was suspended for failure to pay a fine and court costs (June 2019). (GE 5) He was convicted of domestic violence twice in 2003. (GE 5 at 6-7), In January 2015 he was convicted of petty larceny, ordered to pay a fine and assessments of \$530 and issued a no contact order (GE 5 at 10). He said his attorney alleged he stole her cell phone which he denied. (Tr. 87; GE 2 at 19) He was charged with possession of marijuana (2002), acquisition of by theft, unlawful sale, purchase or receipt of credit cards (2002), disorderly conduct and disobeying a police officer (2011), disorderly conduct (2011) and possession of a controlled substance, and malicious mischief (July 2016). (GE 2, 4-6)

**SOR ¶ 2.b: falsely claimed to be married while onboarding with Company A in about October 2019, in an attempt to fraudulently obtain spousal insurance benefits for a person not his wife.** Applicant admitted the allegation, explained his girlfriend assisted him with his benefits enrollment, said he was unaware she listed herself as his spouse, and that once it was brought to his attention she was removed and received no benefits. (Answer; AE A) His signature appears on benefits enrollment forms dated October 25, 2019. (GE 3 at 7-8) One document includes checked boxes next to “Employee & Spouse” and his then girlfriend’s name is handwritten into the other document in the list of dependents eligible for medical and dental insurance. An insurance enrollment form dated January 6, 2020, shows the “employee only box” is checked twice and the enrollment section is hand annotated with “remove [girlfriend’s name] – new job.” (GE 3 at 9-10)

Applicant testified that his then girlfriend helped him complete forms because of his poor handwriting, he probably signed the forms, and later signed documents presented to him without first reviewing them. He acknowledged he may have written his girlfriend’s name on a form to add her to his insurance but said “I’m not sure. I can’t really remember right now.” (Tr. at 90) He “filled out another form [in 2020] just to remove her or something I think[,]” (Tr. at 91) He signed the form after being called into the office, asked a question about his girlfriend being listed in his benefits forms and believed that was when it was discovered that he was not married. (Tr. 91-92) The benefits person “brushed it off like it was no big deal when we signed the form to remove [his then ex-

girlfriend from his insurance].” (Tr. at 94) He denied intentionally misleading his employer about his marital status. He disputed that he had been terminated and said he “walked off the job” on Friday, January 24, 2020, because a manager asked him to do “shady illegal things . . . so they could write [up other employees] and terminate them, and that’s when I knew that . . . I needed to get out of there.” (Tr. 140, 45-48, 88-94, 136-141; GE 2 at 17-18; AE A) He submitted no documentary evidence to corroborate his claims.

Emails dated January 24, 2020, and apparently between employees of Company A state Applicant told them; “when he was first hired that he was married . . . . [and] admitted that he lied about being married when he first got here and he did not add his significant other to the new insurance policy and that they no longer lived together.” (GE 3 at 3-5) A letter on Company A letterhead states he was terminated effective January 27, 2020, because he walked off the job site on Friday, January 24, 2020, and on Monday, January 27, 2020, was insubordinate when his job site lead asked him to leave the shipyard and report to the office. (GE 3 at 1-2)

I do not find Applicant’s claims that he did not intentionally or knowingly claim to be married to his then girlfriend credible. His testimony and demeanor during the hearing were unconvincing, inconsistent with someone who was reliably telling the truth, and contradicted in significant part by documentary evidence. (GE 1-3) I find that he falsely claimed to be married to fraudulently obtain spousal insurance benefits for a person not his wife.

**SOR ¶ 2.c: terminated for cause by Company B in about June 2022 for conduct and behavior including failing to comply with required document submissions and inappropriate text messages to other employees (foul and threatening language). Upon termination, he refused to return his DOD issued Common Access (CAC) Card.** Applicant denied the allegation and testified that he denied threatening anyone, did not recall using foul language, four of five paychecks were late, he used personal funds to purchase job-related items and was not trained how to submit expenses, and expense reimbursements and per diem were routinely late. (Answer to SOR Amendment; AE A; Tr. 94-102). He denied being terminated for cause stating he walked off the job on a Friday, grabbed his tools and told them he “work[ed] for my money. I’m not going to beg for it,” that “in construction, when you walk off a job, it means you’re done,” and that he was unaware he had to notify people. (Tr. 47-48, 97) He acknowledged meeting with Company B representatives on Monday, June 12, 2022, said he “was pretty upset” because they wasted his time and lied to him, and that he “honestly d[idn’t] remember what [he] said. It probably wasn’t polite [because] they made [him] sit there all weekend [and] could have just [given] him a plane ticket on [Friday].” (Tr. 97-98)

Applicant testified he returned his company laptop computer but did not return his CAC card on June 12, 2022, because he did not trust company personnel. He acknowledged he was probably asked to return his CAC card and probably refused to do so until he was paid. (Tr. 105) He went home and returned his CAC card to the same place where it was issued several days later. He requested payment for several days thereafter. (Tr. 47, 98, 102-105) He submitted an unsigned/undated letter stating he

returned a CAC card sponsored by Company B to a DOD facility where it had been issued; it included a DOD ID number and countersignature. (Answer to SOR Amendment) He submitted no documentary evidence to corroborate his other claims.

A memorandum states Applicant was terminated for cause for his conduct and behavior on June 12, 2022. (GE 11) The memo cites his conduct including problems working with other team members and following instructions; failures to upload 19 documents into an ADP system, complete an expense report and provide receipts for an expense; inappropriate text messages to employees which contained “foul and threatening” language regarding his missing money, and his “cursing and screaming, ‘I want my money’” during a June 12, 2022 meeting, and his texts and emails to company employees disparaging the company for days after his termination. (GE 11) An incident report dated June 14, 2022, notes “[u]pon termination, [Applicant] refused to return his DoD issued CAC” card and a command requested the incident report be recorded. (GE 10)

### **Policies**

“[N]o 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 applicants 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 § 2.

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, an administrative judge applies these guidelines 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 and 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 that 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 made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant

has not met the strict guidelines the President and the Secretary of Defense 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. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

## **Analysis**

### **Guideline F, Financial Considerations**

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

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. . . . An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person’s self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. See ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).



Applicant's admissions and record evidence establish three disqualifying conditions under this guideline: AG ¶ 19(a) ("inability to satisfy debts"), AG ¶ 19(b) ("unwillingness to satisfy debts regardless of ability to do so"), and AG ¶ 19(c) ("a history of not meeting financial obligations").

The following mitigating conditions are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

(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.

AG ¶ 20(d) applies to the medical debts alleged in SOR ¶¶ 1.a-1.b (totaling \$1,480). However, none of the above mitigating conditions are established for the debts alleged in SOR ¶¶ 1.c-1.f. While Applicant's unemployment and underemployment were conditions beyond his control, he has not acted responsibly under the circumstances. He has had the financial ability to pay the debts for the past few years but, except for the debt alleged in SOR ¶ 1.c, has chosen to ignore them. He has not provided evidence of a reasonable basis to dispute any of these debts and has not sought or received financial counseling. A security clearance adjudication is not a proceeding aimed at collecting an applicant's debts. Rather, it is a proceeding aimed at evaluating an applicant's judgment, reliability, and trustworthiness. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). His behavior casts doubt on his current reliability, trustworthiness, and good judgment.

Although Applicant reached an agreement to settle the debt alleged in SOR ¶ 1.c (\$22,770) and authorized payment of the \$10,000 settlement amount in December 2023, his actions do not warrant full mitigative credit. He placed the vehicle subject of this delinquent loan in storage after his request to renegotiate loan terms was denied, made

no payments on the loan for at least four and a half years, and then entered an agreement to settle and authorized payment only after his hearing. The timing of an applicant's actions, including repayment of delinquent debts, impacts upon the degree to which the mitigating factors apply. ISCR Case No. 08-06058 at 5 (App. Bd. Sep. 21, 2009).

The debts alleged in SOR ¶¶ 1.d-1.f. (totaling \$23,130) are long-standing and ongoing. Applicant has made no payment on any of these debts since at least September 2018. Although he negotiated settlement agreements for each debt in 2022, there is insufficient evidence to find he adhered to a good-faith effort to resolve them because he made no payments under those agreements and apparently never intended to. That these debts have dropped off recent credit reports is not meaningful evidence of debt resolution. See ISCR Case No. 14-05803 at 3 (App. Bd. July 7, 2016). The security concerns established by Applicant's ongoing delinquent debts are not mitigated.

### **Personal Conduct**

The concern under this guideline 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. . . ."

Applicant's admissions and record evidence establish the conduct alleged in SOR ¶¶ 2.a (criminally charged or cited for non-criminal traffic offenses in about 19 incidents from 1999 to 2019) and 2.b (false claim to fraudulently obtain spousal insurance benefits in October 2019). The record includes substantial evidence that establishes the conduct alleged in SOR ¶ 2.c (terminated for cause for conduct and behavior in June 2022 including failing to submit required documents, inappropriate text messages to other employees containing foul and threatening language, and refusal to return his CAC card upon termination).

The following disqualifying conditions under AG ¶ 16 are relevant:

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination wider any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, willingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual

may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations[;] and

(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 or group. Such conduct includes:

- (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing[.]

AG ¶¶ 16(c), 16(d) and 16(e) are established by Applicant's criminal history, false claim to fraudulently secure employment-related insurance benefits, and termination for cause because of inappropriate conduct and his refusal to return his CAC card upon termination.

The following mitigating conditions under AG ¶ 17 are potentially applicable:

- (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.

None of the mitigating conditions are fully established. Applicant's personal conduct including his criminal history and petty theft conviction in 2015, false claim to fraudulently obtain spousal insurance benefits for a person not his wife in 2019, and

termination for cause in June 2022 for inappropriate conduct establish a pattern of questionable judgment and unwillingness to comply with rules and regulations. Although his last criminal conduct occurred more than five years ago, his lengthy criminal history and troubling personal conduct in 2019 and 2022, and his failure to take responsibility for his personal conduct “undercuts a conclusion of reform and rehabilitation,” and makes it difficult to conclude that such behavior is unlikely to recur. ISCR Case No. 20-00331 at 7 (App. Bd. Aug. 2, 2021).

Applicant claims that he left Company A because he was asked to participate in nefarious conduct at about the same time his attempt to fraudulently obtain spousal insurance benefits for a person not his wife was discovered. This assertion is uncorroborated and not credible. His continued false denial of this conduct shows he is still vulnerable to exploitation, manipulation, and duress. Although his termination for cause by Company B would not, standing alone, necessarily be disqualifying, his disruptive and other inappropriate behavior resulting in his termination, and his conduct after he was terminated are not mitigated. Based upon the entire record, I cannot find such behavior unlikely to recur and find that his conduct continues to cast doubt on his reliability, trustworthiness, and judgment.

### **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.

I have incorporated my comments under Guidelines F and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I considered Applicant’s age, education, employment history, and that his financial problems were caused, in part, by circumstances beyond his control. I also considered he has saved more than \$160,000 over the past several years, made substantial efforts to rehabilitate his credit score, resolved the debts alleged in SOR ¶¶ 1.a-1.b, and settled the debt alleged in SOR ¶ 1.c. However, Applicant has not demonstrated a reliable financial track record in addressing his delinquent debts. I also considered his personal conduct, lack of candor, unwillingness to comply with rules and regulations, failure to acknowledge his inappropriate behavior and the risk of recurrence.

Overall, I did not find Applicant to be credible. His testimony and demeanor during the hearing were unconvincing and inconsistent with someone who was reliably telling the truth. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. After weighing the disqualifying and mitigating conditions under Guidelines F and E and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his delinquent debts and personal conduct.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Subparagraphs 1.c-1.f:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.c:	Against Applicant

### **Conclusion**

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

---

Eric C. Price  
Administrative Judge