



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



In the matter of: )  
)  
) ISCR Case No. 22-01773  
)  
Applicant for Security Clearance )

**Appearances**

For Government: John C. Lynch, Esq., Department Counsel  
For Applicant: *Pro se*

04/26/2024

---

**Decision**

---

OLMOS, Bryan J., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline E, Personal Conduct, Guideline F, Financial Considerations and Guideline J, Criminal Conduct. Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on May 26, 2021. On December 21, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E, Guideline F and Guideline J. The DOD issued the SOR under Executive Order (Exec. Or.) 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 Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant submitted an undated Answer to the SOR, provided documentation, and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). Due to an unknown administrative error, this Answer was not included as part of the initial record in this case. However, Department Counsel obtained a copy of the undated Answer and moved to admit it at hearing as Government Exhibit (GX) 6. Applicant verified that GX 6 was a copy of his undated Answer and it was admitted as such. (Answer; Tr. 6-8) Applicant also submitted a supplemental Answer to the SOR on February 21, 2023, and again requested a hearing. (Supplemental Answer) The case was assigned to me on November 9, 2023. On December 12, 2023, DOHA issued a notice scheduling the hearing for January 12, 2024.

I convened the hearing as scheduled. Department Counsel moved to admit GXs 1-5 and 7-19 to the record. Applicant objected to GXs 13-15 over relevancy concerns. These were non-governmental summaries of State DMV and court records as well as a county summary of a 2015 misdemeanor citation for improper vehicle registration. GXs 1-5 and 7-19 were admitted to the record over Applicant's objections. (Tr. 17-20)

Department Counsel also moved that I take administrative notice of a July 2018 DOJ press release summarizing the sentencing of a woman who pleaded guilty to false representation of a Social Security Number (SSN) after she used a credit profile number, also known as a credit protection number (CPN), instead of her own SSN when applying for a lease and various credit cards. The article described a CPN as a nine-digit number that can often be a stolen SSN and may be marketed to individuals with poor credit history as a way to obtain a clean credit profile. An administrative judge may take administrative notice of suitable matters including official documents posted by Federal departments or agencies on their websites. ISCR Case No. 99-0452 (App. Bd. Mar 21, 2000); ISCR Case No. 21-01688 (App. Bd. Jan. 30, 2023). I declined to take administrative notice of the press release as I found portions of the document to be unrelated to Applicant's circumstances. However, the document was admitted to the record as GX 20 over Applicant's objections. (Tr. 12-25)

Applicant testified at the hearing and did not submit any exhibits. I held the record open through January 26, 2024, to allow both parties the opportunity to submit additional documentary evidence. Applicant timely submitted additional documents that were admitted to the record as Applicant's Exhibits (AXs) A through C, without objection. DOHA received the hearing transcript (Tr.) on January 22, 2024. The record closed on January 26, 2024.

### **Findings of Fact**

In his Answer and Supplemental Answer to the SOR, Applicant denied SOR ¶¶ 1.a-1.c, admitted SOR ¶¶ 2.b and 2.d-2.h, denied SOR ¶¶ 2.a and 2.c and denied SOR ¶ 3.a, all with explanations. His admissions are incorporated into my findings of fact.

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

Applicant is 47 years old. He never married, but has three children, ages four, nine and fourteen, all with three different mothers. He attended some college but did not earn a degree. He served in the Army Reserve from 1994 through 2002 and received an honorable discharge. He has lived in his current residence in State A since 2008. (GX 1-5; Tr. 27-43)

Applicant began working full-time with Employer A in 2003. He started working part-time with Employer B in 2015. He resigned from Employer B in late 2020 in the hopes of having more time to develop a rental out of a portion of his property. In about December 2020, he was terminated from Employer A following several negative write-ups, including uniform violations and repeated tardiness. He was unemployed from December 2020 through April 2021 and received unemployment benefits. He was then rehired by Employer B in a full-time position as a personal security officer. He has held a security clearance since about 2013. (GX 1-2, GX 5; Tr. 44-49)

Applicant has experienced an extended history of financial difficulties that began shortly after he purchased his current home in 2008. By early 2009, he was past due on his first and second mortgages. From late 2009 through early 2011, he made no payments toward the mortgages. He blamed a loss of overtime and reduction in salary for his financial difficulties. Following a loan modification in 2011, he resumed his mortgage payments. (GX 1-5, GX 10-11, GX 17; Tr. 58-62)

In 2012, Applicant wanted to purchase a vehicle, but since he had recently bought his house, he described having a poor debt to income ratio and could not obtain decent financing. His girlfriend at the time, and mother to one of his children, advised him to use what was described as a CPN, instead of his SSN, on his paperwork to obtain the loan, which he did. About a year later, he purchased a second vehicle and used the CPN again for financing. (Answer; GX 5, GX 15, GX 17; Tr. 31-36)

Applicant claimed that his ex-girlfriend managed the paperwork for his vehicle loan applications. However, he was aware that the CPN was placed in the portions of the documents that requested his SSN and he signed the relevant financial forms. He also provided the creditors with a Social Security card that contained his name and the CPN number, not his actual SSN. (SOR ¶¶ 1.a-1.b, 2.a, 3.a) He listed an address in State B as his primary residence in the loan applications, even though he never resided in State B. He understood that his actual credit report would not be reviewed and, later, the vehicle loans would not show up on that report. Afterward, he registered the vehicles in State B even though he garaged and drove them in State A, and he maintained the State B registration throughout his period of ownership. (GX 1, GX 5, GX 15; Tr. 34-43)

In late 2012 or early 2013, Creditor A, who financed one of the vehicles, learned that Applicant had used a fictitious SSN (the CPN) in his credit application and froze his

account. At his hearing, Applicant claimed that he spoke with the creditor about trying to issue payments on the account, but claimed to have never been told why the account was frozen. Ultimately, the vehicle was repossessed while at a repair shop. He made no additional payments on the loan. He paid the second vehicle loan in full. (Answer; GX 5; Tr. 41-43, 80-86, 95-98)

However, in previous interviews with investigators, Applicant presented conflicting statements over what occurred with Creditor A. During a background interview in February 2019, Applicant was asked if he had ever used another SSN and was later asked about the specific number that he had used as his CPN. Applicant denied having another SSN and denied knowledge of the number that he had used as his CPN. (GX 5) (SOR ¶ 1.c)

During a subsequent interview with an investigator in August 2021, Applicant was specifically asked about the loan with Creditor A. He admitted that the loan was frozen after Creditor A learned that he had used a different SSN. In a subsequent phone interview with an investigator, Applicant detailed that it was his ex-girlfriend who advised him to use the different SSN. (GX 5)

At hearing, Applicant stated that he only used the CPN for the two car loans. However, he denied any knowledge that the CPN he used was a fictitious SSN or that the act of using a CPN was criminal in nature. Instead, he stated that a CPN “was like a LLC for individuals.” He later admitted that “in retrospect, CPNs are not the most ethical way to acquire financing.” However, even with his use of a fictitious Social Security card, he still expressed uncertainty over the legality of CPNs. (Tr. 31-40, 173)

In about 2015, he and his girlfriend separated. That same year, he purchased another vehicle and used his real SSN on the loan application. In early 2016, his ex-girlfriend sought full custody of their child. At hearing, he described spending significant funds on legal fees to contest custody in family court. (Tr. 33-35, 99-107)

In his November 2016 SCA, Applicant disclosed that he was considering filing for bankruptcy. A March 2017 credit report showed that he was delinquent on multiple accounts including his first and second mortgages, the 2015 vehicle loan and credit card accounts. Sometime later that year, the vehicle he purchased in 2015 began to have engine issues and he abandoned it at a repair shop. It was repossessed several weeks later. He did not issue any additional payments on the 2015 vehicle loan. (GX 2, GX 5, GX 9; Tr. 58-60, 86-105)

In October 2018, Applicant filed for Chapter 13 bankruptcy. (SOR ¶ 2.b) He listed \$529,272 in claimed debts, of which \$422,265 were listed as secured debts. In addition to the 2015 vehicle loan, mortgages, a personal loan and various credit cards, he listed about \$10,000 in delinquent utilities and cellphone bills and about \$5,000 in various municipality fines, primarily relating to parking citations. He also disclosed a monthly income of \$5,276, approximately \$63,300 annually. (GX 12; Tr. 49-60)

Although Applicant stated that he issued payments into the bankruptcy for an unknown period of time, there are no records of payments. Instead, the bankruptcy was converted to Chapter 7 in November 2019 and was discharged in February 2020. He was unaware of which debts were ultimately discharged. (GX 12; Tr. 53-60, 152-153)

Following the bankruptcy discharge, Applicant's financial difficulties continued. He experienced a period of unemployment in late 2020 and early 2021. Additionally, while he continued to address custody issues with the mother of his first child in family court, the mother of his second child also pursued full custody of their child through family court. Although he claimed that the custody issues had since resolved through joint custody, he estimated that he paid at least \$50,000 in attorney's fees over the years. (Answer; GX 1, GX 5, GX 7, GX 19; AX C; Tr. 46-49, 70-72; 142-146)

Applicant never resumed payments on his mortgages following the bankruptcy discharge. Instead, he submitted an application for homeowner assistance through a program in State A. In July 2023, his application was approved and he received \$54,433 toward the arrearage of his first mortgage and an additional \$9,108 for three forward monthly payments. In January 2024, he received an additional \$20,263 in homeowner assistance to bring his second mortgage current. Based on these payments, he claimed his mortgages are now current and that he is renewing his payments on the mortgages once the homeowner assistance is complete. (GX 1, GX 5; AX B; Tr. 62-75)

In about June 2020, Applicant took out two separate loans of \$13,799 (SOR ¶ 2.d) and \$24,064 (SOR ¶ 2.g) to purchase two vehicles. By 2022, both loans were delinquent. (GX 5, GX 7, GX 19; Tr. 115-130)

With regard to SOR ¶ 2.d, a December 2022 credit report showed that the loan was past due. However, a December 2023 credit report showed the loan was now in good standing. Applicant testified that he had been delinquent on the account, but was now current with a monthly payment of \$350. (Answer; GX 7, GX 19; Tr. 116-120)

In August 2021, Applicant entered into a temporary payment reduction agreement with the creditor for SOR ¶ 2.g. A December 2023 credit report showed that the account had been charged off. However, Applicant testified that he still possessed the vehicle and had been making payments on the account. After the hearing, he provided an account summary showing a payment of \$513 occurring in January 2024 and a reduced account balance of \$22,137. (GX 5, GX 16, GX 19; AX A; Tr. 125-135)

While describing the status of his two current vehicles at hearing, Applicant admitted that neither vehicle was properly registered in State A, his state of residence. One vehicle had expired registration tags. The other vehicle was registered in State C using the address of the dealership that he purchased the vehicle from. He has never lived in State C. In both instances, he stated that he was unable to bring the registration current in State A because his account with the State A government remained in arrears. He was unable to recall the amount that he owed State A but commented that "it's not a

small number.” Additionally, because he was unable to obtain the appropriate residency permit for where he lived in State A, he continued to accumulate parking citations with his most recent occurring about two months prior to the hearing. As of the date of the hearing, that citation remained unpaid. (Tr. 54, 119-139)

In addition to the vehicle loans, Applicant accumulated further delinquent debts following the bankruptcy discharge. SOR ¶ 2.c is a cable bill for \$199 that appeared on his December 2022, May 2023 and December 2023 credit reports. Applicant claimed that the account was resolved as part of the bankruptcy. While he did list an account with this provider in his bankruptcy schedule, the account number and amount of the debt vary. Applicant did not provide any additional documentation establishing that the debt has been resolved. (GX 7, GX 12, GX 18, GX 19; Tr. 135)

Applicant also admitted SOR ¶¶ 2.e (\$467) and 2.f (\$458) and claimed that both accounts were current. His December 2022 credit report showed that SOR ¶ 2.e was past due and that SOR ¶ 2.f was charged off. His December 2023 credit report showed no change in the status of either account. Applicant did not provide any additional documentation establishing that either debt had been brought current or otherwise resolved. (GX 7, GX 19; Tr. 136)

Applicant admitted SOR ¶ 2.h (\$675) and claimed the account was current. His December 2022 credit report showed that the account was past due. However, his December 2023 credit report showed that the account was current with a reduction in the balance owing. (GX 7, GX 19)

Applicant detailed that he currently earned just over \$50,000 in annual salary and was current on his Federal and State tax obligations. Although he still owed State A for various citations, he testified that his financial situation was improving, particularly since his child custody cases had resolved. He also stated that he intended to rent a portion of his home in the near future, which would provide additional income. However, his December 2023 credit report also showed a recent past-due debt with a cellphone provider for \$1,462. Applicant claimed that this additional debt was to be paid for by State A’s homeowner assistance fund. He did not provide documentation reflecting payment of this account. (GX 19; Tr. 122-126, 136-151)

### **Policies**

It is well established that no one has a right to a security clearance. As the Supreme Court held in *Department of the Navy v. Egan*, “the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials.” 484 U.S. 518, 531 (1988)

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 used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion 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.

## **Analysis**

### **Guideline E, Personal Conduct**

The security concern relating to 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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security

investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility.

Under Guideline E, the Government alleges that Applicant knowingly provided a fictitious SSN in loan documents in order to secure financing on two vehicles in 2012 and 2013 (SOR ¶¶ 1.a-1.b), and that he made deliberate false statements during his background interview in February 2019 by denying that he ever used another SSN instead of his own SSN. (SOR ¶ 1.c)

A security clearance investigation is not a forum for an applicant to intentionally omit potentially derogatory information. The Federal Government has a compelling interest in protecting and safeguarding classified information. That compelling interest includes the government's legitimate interest in being able to make sound decisions, based on complete and accurate information, about who will be granted access to classified information. An applicant who deliberately fails to give full, frank, and candid answers to the government in connection with a security clearance investigation or adjudication interferes with the integrity of the government's industrial security program. ISCR Case No. 01-03132 at 3 (App. Bd. Aug. 8, 2002) The Government must produce substantial evidence that an omission was deliberate and not merely that the omission occurred. ISCR Case No. 07-16511 (App. Bd. Dec. 4, 2009)

I have considered the disqualifying conditions for personal conduct under AG ¶ 16 and the following are potentially applicable:

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of: (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information; (2) any disruptive, violent, or other inappropriate behavior; (3) a pattern of dishonesty or rule violations; and (4) evidence of significant misuse of Government or other employer's time or resources.



On two separate vehicle loan applications in 2012 and 2013, Applicant used a fictitious SSN in order to obtain better financial terms. Although he claimed that this number was a CPN and that his girlfriend at the time managed the loan paperwork, he signed the applications and presented a fictitious Social Security card, containing his CPN, during the loan process. This action raises significant questions regarding his judgment, trustworthiness and reliability. AG ¶ 16(d) is applicable. The general security concern under AG ¶ 15 also applies.

Additionally, during his background interview in February 2019, Applicant denied ever having a different SSN or ever using the SSN that he later identified as his CPN, despite having used a Social Security card with the different SSN (CPN) to obtain the loan with Creditor A. In August 2021, when specifically asked about the loan with Creditor A, he admitted that Creditor A found out he was using a different SSN and froze his account. His later testimony that he was unaware why Creditor A froze his account is not credible. He was aware that he used a fictitious SSN to obtain the loan and deliberately failed to disclose that information during his interview in February 2019. AG ¶ 16(b) is applicable.

Conditions that could mitigate the personal conduct security concerns are provided under AG ¶ 17 and the following are potentially applicable:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant used a fictitious SSN and fictitious Social Security card in 2012 and 2013 to secure two vehicle loans. He deliberately failed to disclose this information during his February 2019 interview and failed to make a prompt, good-faith effort to correct the concealment. AG ¶ 17(a) is not applicable.

Applicant's use of a fictitious government document is not a minor offense. Although significant time has passed since he used his fictitious SSN to obtain financing and he no longer associates with the girlfriend who assisted him in setting up the fictitious SSN, he has not accepted responsibility for his actions. At hearing, he still expressed uncertainty over the legality of CPNs even though he had used a fictitious Social Security

card containing the CPN. As he was reluctant to acknowledge the wrongfulness of his conduct, it cannot be said that such behavior is unlikely to recur.

Additionally, his use of fictitious information was not limited to using the CPN as an SSN. He registered both vehicles he purchased with the CPN in State B for years afterwards even though he never lived in State B. One of his current vehicles is registered in State C even though he has never lived in State C. His other current vehicle has expired registration tags in State A as he is unwilling to bring the vehicle current with State A. Given the status of these vehicles, Applicant continues to accumulate parking citations and fines and he continues to be in arrears for an unknown amount with State A. These additional issues were not alleged in the SOR. However, they reflect a history of non-compliance with basic rules and regulations and raise questions regarding his reliability, trustworthiness and judgment. Neither AG ¶¶ 17(c) nor 17(d) is applicable.

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

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

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

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

The adjudicative 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;
  
- (c) a history of not meeting financial obligations; and

(d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, expense account fraud, mortgage fraud, filing deceptive loan statements and other intentional financial breaches of trust.

Under Guideline F, the Government cross-alleges the concerns that, in 2012 and 2013, Applicant used a fictitious SSN in order to obtain favorable financial terms for two vehicle loans. AG ¶ 19(d) is applicable to SOR ¶ 2.a.

Additionally, Applicant has a long history of financial difficulties. This began in 2009 and continued even after he received a Chapter 7 bankruptcy discharge in 2020. Recent credit reports show accounts in delinquent status. AG ¶¶ 19(a) and 19(c) are applicable to SOR ¶¶ 2.b through 2.h.

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; and

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

Applicant's use of a fictitious SSN and fictitious Social Security card occurred over a decade ago and he no longer lives with the girlfriend that helped him set up the fictitious SSN. However, similar to the concerns discussed under Guideline E, he remained reluctant to acknowledge the wrongfulness of his conduct. Therefore, it cannot be said that such behavior is unlikely to recur. None of the mitigating conditions are applicable to SOR ¶ 2.a.

Applicant's financial circumstances have slightly improved since his bankruptcy discharge in February 2020. Following the issuance of the SOR, he has brought the debts underlying SOR ¶¶ 2.d, 2.g and 2.h into good standing. AG ¶¶ 20(b) and 20(d) are applicable to SOR ¶¶ 2.d, 2.g and 2.h.

However, even after receiving a Chapter 7 bankruptcy discharge in February 2020, Applicant continues to maintain delinquent debts. The debts underlying SOR ¶¶ 2.c, 2.e and 2.f remain delinquent and he has not presented a plan to resolve those debts.

Additionally, Applicant's December 2023 credit report showed a new delinquent debt. Further, he remains in arrears with State A for an unknown amount relating to parking citations and various fines. These additional debts were not alleged in the SOR. However, they show that his financial difficulties are ongoing. None of the mitigating conditions apply to SOR ¶¶ 2.b, 2.c, 2.e and 2.f.

### **Guideline J, Criminal Conduct**

The security concern relating to this guideline is set out in AG ¶ 30:

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

The adjudicative guideline notes several conditions that could raise security concerns under AG ¶ 31. The following is potentially applicable in this case:

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

Under Guideline J, the Government cross-alleges the concerns that, in 2012 and 2013, Applicant used a fictitious SSN in order to obtain favorable financial terms for two vehicle loans. He was never charged with a crime relating to these events. Nonetheless, his use of a fictitious SSN and the use of a fictitious Social Security card in a financial transaction is evidence of criminal conduct. AG ¶ 31(b) is applicable to SOR ¶ 3.a.

Conditions that could mitigate the criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

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

Applicant's use of a fictitious SSN occurred over a decade ago. However, he provided false statements about this conduct during his interview in February 2019. At his hearing, even while describing his use of a fictitious Social Security card to obtain financing, he remained reluctant to acknowledge the wrongfulness of his conduct. When an applicant is unwilling or unable to accept responsibility for his own actions, such a failure is evidence that detracts from a finding of reform and rehabilitation. ISCR Case No. 20-01699 (App. Bd. Oct 12, 2022). AG ¶ 32(a) is not applicable to SOR ¶ 3.a.

## **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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline E, Guideline F and Guideline J in my whole-person analysis.

Applicant honorably served in the Army. He has held a security clearance over the last decade. With the exception of a small break in 2020, he has been with his current employer since 2015. In describing his custody battles involving two of his children, he appears to be a committed father while working to improve his financial circumstances.

Nonetheless, Applicant was reluctant to accept the significance of his financial transgressions. More recently, he still maintains delinquent accounts following a Chapter 7 bankruptcy and owes State A an untold sum for various vehicle infractions because he remains in noncompliance with basic regulations there. The seriousness of his use of a fictitious SSN and his ongoing financial issues leave me with questions and doubts as to his suitability for a security clearance.

## **Formal Findings**

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

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraphs 1.a-1.c:	Against Applicant

Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraphs 2.a-2.c:	Against Applicant
Subparagraph 2.d:	For Applicant
Subparagraphs 2.e-2.f:	Against Applicant
Subparagraphs 2.g-2.h:	For Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

### **Conclusion**

In light of all of the circumstances, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

---

Bryan J. Olmos  
Administrative Judge