



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



In the matter of:)
)
) ISCR Case No. 23-02913
)
Applicant for Security Clearance)

Appearances

For Government: Aubrey M. De Angelis, Esquire, Department Counsel
For Applicant: *Pro se*

10/17/2024

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant failed to mitigate the security concerns regarding financial considerations. Eligibility for a security clearance is denied.

Statement of the Case

On June 21, 2022, Applicant applied for a security clearance and submitted a Questionnaire for National Security Positions (SF 86). On June 13, 2023, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Services (CAS) issued him a set of interrogatories. He responded to those interrogatories on June 27, 2023. On an unspecified date, the Defense Office of Hearings and Appeals (DOHA) issued him another set of interrogatories. He responded to those interrogatories on February 16, 2024. On March 7, 2024, the DCSA CAS issued a Statement of Reasons (SOR) to him under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016) (AG), effective June 8, 2017.

The SOR alleged security concerns under Guideline F (financial considerations) and Guideline E (personal conduct) and detailed reasons why the DCSA adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

On May 22, 2024, Applicant responded to the SOR and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM), including proposed Government Exhibits (GE), was mailed to Applicant by DOHA on July 18, 2024, and he was afforded an opportunity after receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudicative Guidelines applicable to his case. Applicant received the FORM on July 23, 2024. His response was due on August 22, 2024. As of August 28, 2024, no response had been received. The case was assigned to me on October 11, 2024, and there was still no response to the FORM. The record closed on August 28, 2024.

Findings of Fact

In his response to the SOR, Applicant admitted all (or part thereof), the SOR allegations related to financial considerations, with comments (SOR ¶¶ 1.a. (part), and 1.b. through 1.d.), as well as the sole allegation related to personal conduct (SOR ¶ 2.a.). Applicant's admissions and comments are incorporated herein. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

Background

Applicant is a 41-year-old employee of a defense contractor. The record is silent as to his position or starting date. He previously served with other employers as a critical infrastructure protection engineer (June 2016 – at least June 2022); and as an information associate (March 2007 – June 2016). Born in Liberia, he immigrated as a refugee to the United States in 2006 and became a naturalized U.S. citizen in 2019. His high school education was not reported. He received a bachelor's degree in electrical engineering and a master's degree in electrical engineering in 2016, and another master's degree cybersecurity in electrical and computer engineering in 2018. He has never held a security clearance, but claims he had an active personal risk assessment with one employer since 2014. He has never served in the U.S. military. He has never been married. In his June 2022 SF 86 he denied having any children, but during an interview with an investigator with the U.S. Office of Personnel Management (OPM) in November 2022, he acknowledged having one daughter, born in 2017.

Financial Considerations & Personal Conduct

General source information pertaining to the financial accounts discussed below can be found in the following exhibits: Item 5 (Responses to Interrogatories, dated June 27, 2023); Item 6a (Response to Interrogatories, dated February 16, 2024); Item 6b (Enhanced Subject Interview, dated November 22, 2022); Item 7 (Court Documents, various dates); Item 8 (Court Documents, various dates); Item 9 (Combined Experian, TransUnion, Equifax Credit Report, dated July 13, 2022); Item 10 (Verato Credit Report, dated August 24, 2023); Item 11 (Equifax Credit Report, dated February 14, 2024); and Item 12 (Experian Credit Report, dated June 28, 2024).

In his June 21, 2022, SF 86, Applicant denied that he had any delinquent accounts. (Item 4 at 30-32) That denial was not candid or forthright for reasons set forth below. On November 22, 2022, after confirming to the OPM investigator that he had no delinquent accounts, he was confronted with evidence of one. He claimed his bank-issued credit card – which generally had a balance of about \$6,000 and for which he was paying \$130-\$170 each month – had been stolen during a trip to Liberia in November 2021, and he informed the bank upon his return to the United States. He claims he was assured that the fraudulent charges would be removed from his account. The balance on the account increased to approximately \$21,000, and he routinely maintained contact with the bank, and made monthly payments, but the charges were not removed. Because of the failure by the bank to remove the fraudulent charges, after about four or five months, during May or June 2022, he stopped making any payments to the bank. He intended to repay the approximate \$6,000 balance on the card upon receiving his income tax refund. He added that his overall financial situation is stable, and that he pays all of his bills on time. (Item 6b at 6)

In response to a June 2023 interrogatory regarding that same particular bank credit-card account, on June 27, 2023, he stated:

I had a credit card account with [the bank] from 04/2011 until 9/2021. The credit limit started from a 1000 to 18,500. In the course of 10 years, not once did I ever go above the limit on the Account. Around May of 2021 I had my card stolen and in less than 2 weeks, the charges on the card went from 7000 plus to 21,000. I talked to the bank and tried to resolve what were obviously fraudulent charges on the account and they wouldn't budge. I stopped paying on the card after about 4 months of going back and forth with them and the case is currently in court. I'll attach court documents and keep this office abreast of the proceeding.

(Item 5 at 7)

Applicant attached the Complaint in a Civil Action regarding the account, which indicated that the last payment made on the account was made on September 30, 2021, and the unpaid balance was as of the date of the filing, \$27,614.28. (Item 5 at 10)

In his Answer to the SOR, Applicant claimed that he endeavors to live within his means but that over the last few years he and his family fell upon some financial hardship due to extenuating circumstances. He said he lost his father and elder sister within the space of a month and that led to some “serious strain” on his finances. (Item 3 at 3) As noted by Department Counsel, it is unclear when Applicant’s father passed away, but it was some time before he submitted his SF 86 in June 2022, and Applicant never mentioned having a sister in his SF 86 or during his OPM interview. Moreover, Applicant never explained the specific causes of his financial strain, when they developed, and how they related to the accounts alleged in the SOR.

While Applicant admitted that the accounts alleged in the SOR were still delinquent, he stated that he had engaged the professional services of a company to assist him in settling the financial obligations owed to those creditors. He failed to submit any documentation to describe the specific work the company was engaged to do for him, when they were hired, or what his financial obligations to the company for their services might be. There was no proposed repayment plan. Furthermore, there is no indication that he had made any payments to the company, or to his creditors.

The SOR alleged four still-delinquent accounts totaling approximately \$43,034, as set forth below:

SOR ¶ 1.a. refers to the bank credit-card account, discussed above, with an unpaid balance of approximately \$27,614 that was placed for collection and charged off. The last payment made to the account occurred on September 30, 2021, contrary to Applicant’s assertion that payments continued until May or June 2022. On June 6, 2023, a judgment by default, in the approximate amount of \$28,042 including costs was entered against Applicant. (Item 5 at 4, 7-10; Item 6b at 6; Item 7; Item 10 at 2; Item 11 at 3; Item 12 at 2-3) The account is not yet in the process of being resolved.

SOR ¶ 1.b. refers to a bank credit-card account with an unpaid balance of approximately \$7,882 that was placed for collection and charged off in 2022. The last payment made to the account occurred in May 2022. A legal action was filed against Applicant in August 2023, and a judgment in the amount of approximately \$8,010 was entered on November 21, 2023. (Item 8; Item 9 at 6; Item 10 at 2; Item 11 at 4; Item 12 at 2-3) The account is not yet in the process of being resolved.

SOR ¶ 1.c. refers to an unspecified type of account with an unpaid balance of approximately \$742 that was placed for collection. Applicant and the collection agent agreed to a settlement for less than the full balance in May 2024. (Item 12 at 1) While the amount paid to settle the account has not been reported, the account has been resolved.

SOR ¶ 1.d. refers to bank credit-card account with an unpaid balance of approximately \$6,240 that was placed for collection and sold to a debt purchaser. The last payment made to the account occurred in June 2024, and the remaining unpaid balance is approximately \$6,210. (Item 9 at 7; Item 11 at 4; Item 12 at 2) The account is in the very early process of being resolved.

Applicant reported his adjusted gross income for the tax year 2020 as approximately \$53,740 (Item 6 at 20-24); his adjusted gross income for the tax year 2021 as approximately \$34,691 (Item 6 at 25-34); his adjusted gross income for the tax year 2022 as approximately \$31,562 (Item 6 at 35-43); and his adjusted gross income for the tax year 2023 as approximately \$65,897 (Item 6 at 44-52). In June 2023, he submitted a Personal Financial Statement in which he reported approximately \$7,272 in current net monthly income; \$3,723 in monthly household expenses; and approximately \$1,047 in monthly loan payments, leaving approximately \$2,502 as a monthly remainder available for savings or spending. In addition, he noted that he had \$91,000 in student loans in a forbearance status for which he was not making any payments. (Item 5 at 11)

According to Applicant's June 2024 credit report, he is currently delinquent on two personal loans that were listed as current in his February 2024 credit report. The personal loan payment of \$1,047 is associated with an account he opened in November 2020, and it reflects a current balance of \$19,800, of which \$3,189 was past due as of June 2024, with the last payment of \$1,045 having been made on February 18, 2024. (Item 12 at 1-2) The other loan for \$14,000 was opened in November 2021 with scheduled monthly payments of \$387. The current balance was \$9,440, of which \$407 was past due as of June 2024.

Other than Applicant's unclear association with a company that would purportedly assist him in settling his debts, there is no evidence of financial counseling or repayment plans.

Policies

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

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging 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. 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 meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.” “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” (ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1)) “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 Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation, or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. Sept. 22, 2005))

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those 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 as to potential, rather than actual, risk of compromise of classified information. Furthermore, “security clearance determinations should err, if they must, on the side of denials.” (*Egan*, at 531)

Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” (See Exec. Or. 10865 § 7) Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19:

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

The SOR alleged five still-delinquent accounts totaling approximately \$43,034. On its face, without any background information, Applicant's history of delinquent debts appears to present either an inability to satisfy debts or a history of not meeting financial obligations. Despite his initial dispute with one creditor regarding a debt he attributed to having his credit card stolen in Liberia, and his declared intention to satisfy what he considered to be the valid balance of that credit card, so long as the creditor removed what he considered to be fraudulent charges, Applicant stopped making any payments toward that account in September 2021, not in May or June 2022 as he erroneously contended. He finally acknowledged having other delinquent accounts for which no payments had been made. Based on his reported adjusted gross income over the past few years, as well as his current monthly remainder, while there may have been times when there was a temporary difficulty to satisfy his debts, there is also clear evidence that he was, and still is, unwilling to satisfy his debts regardless of the ability to do so. AG ¶¶ 19(a), 19(b), and 19(c) have been established.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties under AG ¶ 20:

(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

None of the mitigating conditions apply. Applicant is not a reliable historian of his financial issues for he has offered inconsistent and sometimes false information and explanations regarding his delinquent accounts and his ability or intention to resolve them. Zero delinquent accounts initially turned out to be one delinquent account, and then it became five delinquent accounts, not counting the two newer non-alleged accounts. The timeline of his claimed financial difficulties appears to be at odds with the documentary evidence. Likewise, the causes of his financial difficulties are inconsistent. Applicant stated that he had engaged the professional services of a company to assist him in settling his delinquent accounts, but he failed to submit documentation reflecting their anticipated goal and responsibilities, any repayment plans, or costs associated with their services. It appears that he did finally resolve one modest delinquent account in May 2024 – two months after the SOR was issued – for an amount less than the actual balance owed.

A debt that became delinquent several years ago is still considered recent because “an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions.” (ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017) (citing ISCR Case No. 15-01690 at 2 (App. Bd. Sept. 13, 2016))). After Applicant was interviewed by the OPM investigator, after he answered two sets of interrogatories, and before the SOR was issued in March 2024, he made no verifiable efforts to address any of the delinquent debts.

Based on the evidence, it is apparent that Applicant may have intentionally ignored his delinquent accounts for a substantial period. With the exception of the brief initial

efforts to resolve the delinquent credit-card account which he claimed was stolen, and his one relatively recent resolution of one modest delinquent account, he has made no verifiable efforts in working with his creditors to resolve the accounts. The Appeal Board has previously commented on such a situation:

Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties. ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

An applicant who begins to resolve his or her financial problems only after being placed on notice that his or her security clearance is in jeopardy may be lacking in the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his or her own interests. (See, e.g., ISCR Case No. 17-01213 at 5 (App. Bd. Jun. 29, 2018); ISCR Case No. 17-00569 at 3-4 (App. Bd. Sept. 18, 2018) In this instance, Applicant has been silent as to making such efforts even after the SOR was issued.

Clearance decisions are aimed at evaluating an applicant's judgment, reliability, and trustworthiness. They are not a debt-collection procedure. The guidelines do not require an applicant to establish resolution of every debt or issue alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant immediately resolve issues or make payments on all delinquent debts simultaneously, nor is there a requirement that the debts or issues alleged in an SOR be resolved first. Rather, a reasonable plan and concomitant conduct may provide for the payment of such debts, or resolution of such issues, one at a time. Mere promises to pay debts in the future, without further confirmed action, are insufficient. In this instance, Applicant clearly stated that he intended to pay off what he considered the true balance of the credit card that he said had been stolen, but he did not establish any verifiable repayment plans or verifiable evidence of payments to four of the SOR-alleged creditors, including that particular creditor. He did resolve the one modest delinquent account, but now it appears that additional non-SOR alleged delinquent accounts have been reported.

The Appeal Board has previously explained what constitutes a good-faith effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good-faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term "good-faith." However, the Board has indicated that the concept of good-faith "requires

a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation.”

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. Jun. 4, 2001)).

There is no verifiable evidence of financial counseling, a budget, or repayment plans. Applicant reported his current net monthly income and his monthly household expenses. If he had made any good-faith efforts to resolve his delinquent accounts, or to make any payments associated with them, it would reflect positive actions by him. He has recently resolved only one modest delinquent account for less than the balance owed. Applicant’s substantial inaction under the circumstances continues to cast doubt on his current reliability, trustworthiness, and good judgment. See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

Guideline E, Personal Conduct

The security concern relating to the guideline 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. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

The guideline also includes a condition that could raise security concerns under AG ¶ 16:

(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 national security eligibility or trustworthiness, or award fiduciary responsibilities.

My comments related to Applicant's financial considerations are incorporated herein. As noted above, when Applicant was asked to report any specific financial delinquency issues in Section 26 of his June 2022 SF 86, he falsely answered "no," deliberately concealing his delinquent credit-card account. In fact, the account had been delinquent since September 2021 when he made his last payment. AG ¶ 16(a) has been established.

The guideline also includes examples of conditions under AG ¶ 17 that could mitigate security concerns arising from Personal Conduct:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

None of the mitigating conditions apply. Applicant did not make prompt, good-faith efforts to correct his omission, concealment, and falsification until he was confronted with them. He maintained that the matter had not yet been decided in court and he continued to claim that he had made payments on the account until May or June 2022, despite clear evidence to the contrary that he made his last payment in September 2021. There was nothing unique about the circumstances that resulted in his cover-up action. He now finally acknowledges that the account remains delinquent. Applicant's actions under the circumstances continues to cast doubt on his current reliability, trustworthiness, and good judgment. See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

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 SEAD 4, App. A, ¶ 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 SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis. See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); see also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

Unalleged conduct can be considered for certain purposes, as discussed by the DOHA Appeal Board. (Conduct not alleged in an SOR may be considered: (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole-person analysis under Directive § 6.3). See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006); (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See also ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). Applicant's unalleged delinquent accounts, as well as his false narratives to the OPM investigator will be considered only for the five purposes listed above.

Based on all of the above, I must conclude that Applicant's credibility is poor and unreliable. He initially denied on his June 2022 SF 86 that he had any delinquent accounts. When he was interviewed by an OPM investigator, after he was confronted with the one delinquent account, he acknowledged it. When the SOR was issued in March 2024, Applicant had five delinquent accounts totaling approximately \$43,034. His explanations were inconsistent and sometimes false. With the exception of the one modest delinquent account that he resolved for less than the amount owed after the SOR was issued, Applicant has seemingly ignored all the other creditors. He has also added to the number of his delinquent accounts. Applicant has a sufficient remainder each month to enable him to try to resolve his accounts, but he has failed to offer any verifiable

evidence that he has tried to do so. The issues associated with his delinquent accounts was first raised in June 2022 when he completed his SF 86. It was brought up again by an OPM interview and in two separate sets of interrogatories. Applicant's concealment of those accounts, along with his false response in his SF 86 took place over two years ago, and Applicant has taken no verifiable steps to resolve or to pay any of the four remaining debts alleged.

In ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008), the Appeal Board addressed a key element in the whole-person analysis in financial cases stating:

In evaluating Guideline F cases, the Board has previously noted that the concept of "meaningful track record" necessarily includes evidence of actual debt reduction through payment of debts. However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ". . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan." The Judge can reasonably consider the entirety of an applicant's financial situation and his [or her] actions in evaluating the extent to which that applicant's plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) ("Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.") There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

Applicant's track record of taking only one recent effort to resolve any of his debts, is negative and discouraging. After two years he resolved the one modest delinquent account but continues to ignore the others. And, he has added to the number of delinquent accounts. Overall, the evidence leaves me with substantial questions and doubts as to Applicant's eligibility and suitability for a security clearance. Accordingly, I conclude Applicant has failed to mitigate the security concerns arising from his financial difficulties and personal conduct. See SEAD 4, App. A, ¶¶ 2(d)(1) through AG 2(d)(9).

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. and 1.b.:	Against Applicant
Subparagraph 1.c.:	For Applicant

Subparagraphs 1.d. and 1.e.:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a.:	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 interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

ROBERT ROBINSON GALES
Administrative Judge