



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



In the matter of:

ISCR Case No. 22-01864

Applicant for Security Clearance

Appearances

For Government: Adrienne Driskill, Esq., Department Counsel

For Applicant: *Pro se*

03/21/2025

Decision

TUIDER, Robert, Administrative Judge:

Applicant failed to mitigate security concerns regarding Guidelines F (financial considerations) and E (personal conduct). Clearance is denied.

Statement of the Case

On September 22, 2021, Applicant submitted a Questionnaire for National Security Positions (SF-86). On March 17, 2023, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudication Services (CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F and E. The SOR detailed reasons why the CAS was unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Applicant submitted his response to the SOR in an undated Answer and requested a hearing. On July 31, 2023, Department Counsel was ready to proceed.

On August 7, 2023, the Defense Office of Hearings and Appeals (DOHA) assigned the case to me. On August 11, 2023, DOHA issued a Notice of Hearing scheduling the hearing for August 28, 2023. The hearing was convened as scheduled.

Department Counsel offered Government Exhibits (GE) 1 through 6, which I admitted without objection. Applicant testified, did not call any witnesses, and offered Applicant Exhibit (AE) A, which I admitted without objection. I held the record open until September 22, 2023, to afford Applicant an opportunity to submit evidence. He timely submitted Applicant Exhibits (AE) B through E, which I admitted without objection. On September 1, 2023, DOHA received the hearing transcript (Tr.).

Findings of Fact

Background Information

Applicant is a 62-year-old logistics analyst employed by a defense contractor since May 2020. He seeks to retain a Secret security clearance, which is a requirement of his continued employment. (Tr. 13-14; GE 1)

Applicant was born and raised in the Philippines. He spent his formative years there where he received his high school diploma in April 1979. He was awarded an associate degree in October 2006, and a bachelor's degree in December 2013. He earned both degrees in the United States. (Tr. 14-16; GE 1) Applicant served in the U.S. Marine Corps from March 1984 to March 2004, and was honorably discharged as a staff sergeant (pay grade E-6). His military occupational specialty was aviation supply clerk (Tr. 16-15; GE 1; AE A)

Applicant married in the Philippines in October 1984. Applicant's wife was also born in the Philippines. They are both naturalized U.S. citizens. They have three adult children. (Tr. 19-20; GE 1) Applicant's wife is employed fulltime as an accounting assistant. She earns about \$50,000 a year and Applicant earns about \$60,000 a year for a combined total income of \$110,000. Applicant owns his home, and his monthly mortgage is \$2,400. (Tr. 82-83)

Financial Considerations

The SOR alleges 13 delinquent debts. These debts are established by Applicant's September 22, 2021 SF-86; his OPM Report of Investigation, Summarized Results of Applicant's Personal Subject Interview (PSI), conducted on April 20, 2022, with follow-on contact; and his four Credit Bureau Reports dated July 12, 2023, August 15, 2022, October 14, 2021, and August 16, 2018. (GE 1-5)

As a starting point, Applicant had a previous DOHA hearing with another Administrative Judge on January 9, 2020, with most of the allegations presented from that DOHA hearing repeated in this case. (ISCR Case No. 19-01240 Mar. 10, 2020.) At Applicant's January 9, 2020 hearing, the SOR dated May 21, 2019, alleged security concerns under Guidelines B (foreign influence), F (financial considerations), and E (personal conduct). The previous Administrative Judge found in Applicant's favor on all three security concerns and granted him access to classified information. This case does not involve any foreign influence concerns; however, it does involve financial considerations and personal conduct concerns.

A summary comparison of the current and previous SOR allegations follows:

SOR ¶ 1.a – Collection student loan account in the amount of \$9,672. (Alleged as student loan collection account in the amount of \$9,510 in 2019 SOR ¶ 2.a) (Tr. 23)

SOR ¶ 1.b – Collection student loan account in the amount of \$9,224. (Alleged as student loan collection account in the amount of \$9,510 in 2019 SOR ¶ 2.b) (Tr. 23)

SOR ¶ 1.c – Collection student loan account in the amount of \$6,133. (Alleged as student loan collection account in the amount of \$5,843 in 2019 SOR ¶ 2.c) (Tr. 23)

SOR ¶ 1.d – Collection student loan account in the amount of \$5,509. (Not alleged in 2019 SOR) (Tr. 23-24)

SOR ¶ 1.e. – Collection student loan account in the amount of \$4,956. (Alleged as student loan collection account in the amount of \$3,715 in 2019 SOR ¶ 2.d) (Tr. 24)

Applicant stated that he accumulated these student loans for his daughter and for himself. He received his bachelor's degree in 2013. Applicant explained that he fell behind on his student loan payments because he got laid off. His SF-86 reflects periods of unemployment from July 2009 to November 2009, December 2014 to May 2016, and October 2017 to June 2018. He also stated that he lost his tax-exempt status after being recalled early from Afghanistan in 2014 and was "[f]acing 27,000 worth of taxes," adding that he could only afford to pay the IRS \$500 at the time. (Tr. 24-29; GE 1)

Applicant also added that he got laid off from his previous employer in "January or February 2020 . . . when COVID started." He was laid off for a "couple of months." This layoff occurred after his January 2020 DOHA hearing. Applicant listed on his SF-86 being with his previous employer from April 2019 to February 2021 and starting with his current employer in May 2021. Applicant acknowledged being unemployed from his previous employer in early 2020 "a little over 60 days." (Tr. 29-30, 40-41; GE 1)

Applicant testified at his previous hearing that he was paying about \$800 each month directly out of his paycheck, as evidenced by two Leave and Earnings statements he submitted into the record. He further testified that these loans will be fully repaid in two or three years. (ISCR Case No. 19-01240 Mar. 10, 2020, p. 4) However, when Applicant was laid off shortly after his last 2020 hearing, payments were no longer deducted from his paycheck. He stated that he made payments until "May, I think – March, April – maybe June (2020)." (Tr. 32-34)

Applicant stated that his student loan payments were put on pause in June 2020 "[b]ecause they waived the payments" as a result of COVID relief. (Tr. 34, 41-44) Applicant stated it was "a lot easier" for him not to continue making student loan payments because he took a pay cut when he began working for his current employer in 2020. (Tr. 35) He added that after the student loan lender waived making payments, he paid the IRS \$500 a month, but if he was also paying his student loans, the total amount he would be paying is \$1,300 a month. (Tr. 35-36)

Applicant admitted that he owes all five of the foregoing student loans but stated “(the lender) enrolled me to the fresh start to keep it current.” (SOR Answer) Applicant testified that his student loans were in a deferred status, that he had already contacted the lender, and his loan payments would resume in October 2023. He estimated his monthly payments would be \$390 a month. Applicant’s July 12, 2023 credit report indicates these five student loans are in a deferred/current status. (Tr. 42, 45-50, 58-59, 64; GE 3) Post-hearing, he submitted a one-page document, dated September 19, 2023, that reflected the five student loans above with a due date of October 15, 2023. (AE B) These debts are being resolved.

SOR ¶ 1.f – Charged-off signature loan in the amount of \$598 (Alleged as a collection account in the amount of \$1,224 in 2019 SOR ¶ 2.f.). In Applicant’s SOR Answer, he denied this debt because “this account has been charged off several years ago and I have been coordinating with the Credit Bureau to take it out of my credit report.” (SOR Answer; Tr 50-52.) Applicant stated that he paid this debt off. He added that he called the credit bureau, and they advised him to write them a letter to have the debt removed. He claimed he wrote the letter, and the credit bureau told him they never received his letter. Applicant was able to produce documentation at his previous hearing that he had made five \$100 payments on this account. He stated that he continued to make payments after his first hearing until the account was paid off in 2020. Applicant did not produce any documentation related to this debt at his hearing or post-hearing evidencing that this debt had been paid or otherwise resolved. (Tr. 52-55) This debt is not resolved.

SOR ¶ 1.g – Credit card collection account in the amount of \$1,473 (Alleged as a charged-off account in the amount of \$1,295 in 2019 SOR ¶ 2.j). In Applicant’s SOR Answer, he denied this debt “because this account has been paid in full and I have been waiting from the Credit Bureau to take it out of my credit report.” (SOR Answer; Tr. 55-56) In Applicant’s previous hearing, he testified that he is unfamiliar with this debt. The Administrative Judge accepted Applicant’s representation that this debt would be resolved pursuant to his repayment plan. The Applicant did not produce any documentation related to this debt at his hearing or post-hearing reflecting that this debt had been paid or otherwise resolved. (ISCR Case No. 19-01240, Mar. 10, 2020, p. 4) This debt is not resolved.

SOR ¶ 1.h – Department store charged-off account in the amount of \$553 (Alleged as a charged-off account in the amount of \$553 in 2019 SOR ¶ 2.i). In Applicant’s SOR Answer, he denied this debt “because this account has been paid in full and I have been waiting from the Credit Bureau to take it out of my credit report.” (SOR Answer; Tr. 70) In Applicant’s previous hearing, the Administrative Judge found that this account was opened in 2012. Applicant defaulted on the payment of this account in about June 2015. Applicant testified that he is unfamiliar with this debt. The Administrative Judge accepted Applicant’s representation that this debt would be resolved pursuant to his repayment plan. The Applicant did not produce any documentation related to this debt at his hearing or post-hearing reflecting that this debt had been paid or otherwise resolved. (ISCR Case No. 19-01240, Mar. 10, 2020, p. 4) This debt is not resolved.

SOR ¶ 1.i – Credit card charged-off account in the amount of \$3,715 (Alleged as a charged-off account in the amount of \$3,715 in 2019 SOR ¶ 2.d). In Applicant's SOR Answer, he denied this debt "because this account has been charged off and I have been waiting from the Credit Bureau to take it out of my credit report." (SOR Answer; Tr. 70) () In Applicant's previous hearing, the Administrative Judge found that this account was opened in 2013. Applicant wrote in his SOR answer that he learned about this collection account when he returned from his deployment in a war zone in November 2013. He testified that he tried to reach the bank when he returned from the war zone and learned that the debt had been transferred to a collection agency. He never heard anything further about this account. The Administrative Judge accepted Applicant's representation that this debt would be resolved pursuant to a repayment plan. The Applicant did not produce any documentation related to this debt at his hearing reflecting that this debt had been paid or otherwise resolved. (ISCR Case No. 19-01240, Mar. 10, 2020, p.4) Post-hearing, Applicant submitted a Cancellation of Debt Form 1099-C, dated April 6, 2019, in the amount of \$3,129.18. (AE E) This debt is resolved.

SOR ¶ 1.j – Credit card charged-off account in the amount of \$1,080 (Alleged as a charged-off account in the amount of \$1,080 in 2019 SOR ¶ 2.h). In Applicant's SOR Answer, he denied this debt "because this account has been paid in full." (SOR Answer; Tr. 71) () In Applicant's previous hearing, the Administrative Judge found that this account was opened in 2013 and became delinquent a year later. Applicant contacted the creditor and was advised that this debt was charged off and would be treated as income for tax purposes. He believed that he included this debt as income on his tax returns and owes nothing further. The Administrative Judge accepted Applicant's representation that this debt would be resolved pursuant to a repayment plan. The Applicant did not produce any documentation related to this debt at his hearing reflecting that this debt had been paid or otherwise resolved. (ISCR Case No. 19-01240, Mar. 10, 2020, p.4) Post-hearing, Applicant submitted a Cancellation of Debt Form 1099-C dated December 31, 2021, in the amount of \$880. (AE D) This debt is resolved.

SOR ¶ 1.k – Credit card collection account in the amount of \$1,262 (Alleged as a credit card collection account in the amount of \$1,567 in 2019 SOR ¶ 2.e). Applicant did not address this debt in his SOR Answer. (Tr. 71) In Applicant's previous hearing, the Applicant advised the Administrative Judge that this debt was transferred to a collection agency. The agency obtained a judgment against Applicant in October 2017. Applicant claimed he never received any correspondence or court papers from the creditor, either before the judgment or after. The Administrative Judge accepted the Applicant's representation that this debt would be resolved pursuant to a repayment plan. (ISCR Case No. 19-01240, Mar. 10, 2020, p. 4) The Applicant did not produce any documentation related to this debt at his hearing or post-hearing reflecting that this debt had been paid or otherwise resolved. This debt is not resolved.

SOR ¶ 1.l – Charged-off credit union account in the amount of \$1,398 (Alleged as credit union collection account in the amount of \$1,224 in 2019 SOR ¶ 1.f). In his SOR Answer, Applicant denied this debt "because this account is the same account from letter f. (name of creditor) that changed its institution name from (former name) to

(current name) and it has been paid in full.” (SOR Answer; (Tr. 71) This allegation is withdrawn.

SOR ¶ 1.m – Collection credit union account in the amount of \$1,667 (Alleged as a charged-off credit union account in the amount of \$1,098 in 2019 SOR ¶ 2.f). In his SOR Answer, Applicant denied this account because it “is the same account from letter f and l (former name) that changed its institution name from (former name) to (current name) and it has been paid in full.” (SOR Answer; Tr. 71) () This allegation is withdrawn.

In 2021 and 2022, after Applicant’s 2020 DOHA hearing in which his clearance was granted, his credit reports indicated none of these accounts had been paid. Applicant claimed that he sends letters to the Credit Bureau and said, “they keep giving me a runaround.” The only debts remaining on Applicant’s 2023 credit report were his student loans. The other remaining debts had apparently fallen off his credit report. Applicant testified his accounts were paid. Department Counsel correctly pointed out that documentation was required, which was lacking at Applicant’s first hearing and in his current hearing. Department Counsel also noted that Applicant was given considerable leeway at his 2020 hearing in which he stated he would resolve his debts without any documentation. (Tr. 58-60, 65)

Applicant stated, “Well, after the hearing, sir, there’s nobody else to pay, sir, because I didn’t owe anybody money . . . except for the Department of Education.” (Tr. 60) Applicant also stated, “Nobody else could show us what debt I had because everything was paid off. So who am I supposed to pay?” (Tr. 61) Applicant also claimed that he showed documentation to the Administrative Judge at his previous hearing and now he does not have the documentation because he thought all those debts were resolved. Department Counsel indicated that Applicant’s 2020 case file contained evidence of five \$100 payments to credit card debts alleged in SOR ¶¶ 2.f (\$1,224) and 2.g (\$1,098), which are the same debt to the same bank, and evidence of two \$800 payments on his student loans. (Tr. 63-64; ISCR Case No. 19-01240, p.4)

After Applicant was questioned regarding the status of his SOR debts, it was apparent that he had produced little or no documentation to mitigate those debts. I advised him that I would keep the record open until September 22, 2023, and specifically told him that he needed to submit documentation to address SOR ¶¶ 1.f through 1.k, which consisted of six debts. (Tr. 71-73) As noted, Applicant submitted Form 1099-Cs that covered SOR ¶¶ 1.i and 1.j. (AE D, AE E)

Post-hearing, Applicant submitted a copy of his credit score printed on September 3, 2023, which was 744. (AE C)

Personal Conduct

In his SOR Answer, Applicant responded to the falsification allegation in SOR ¶ 2.a by denying that he “falsified material facts on E-QIP because to the best of my knowledge, my credit accounts are all up-to-date and not delinquent beside [sic] my debts from the [student loans]. In addition, these debts have been explained in court

and a common knowledge between your facility (DOD CAF) and I during my hearing back on March 10, 2020. I am also sending you a copy of the court's decision as an attachment." (SOR Answer)

On his September 22, 2021 SF-86, the questions clearly asked whether **"In the past seven (7) years, you had bills or debts turned over to a collection agency? [and] in the past seven [7] years, you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed?"** Applicant answer "No" to both questions, and deliberately failed to disclose that information as alleged in SOR ¶¶ 1.a through 1.m.

When asked by Department Counsel why he did not list the debts that he had on his September 22, 2021 SF-86, Applicant responded, "It's because you already know that. You – we went to this court already. That's like common knowledge between you and myself. You took me to court like three years ago. So you already knew that." (73-74)

The very same falsification allegation when he completed his June 27, 2018 SF-86 was alleged on his 2019 SOR. In his 2019 SOR Answer, Applicant responded to the falsification allegation stating that he did not understand the question. He noted that English was his second language. He claimed that he was unaware of any delinquent debts. At his previous hearing, he clarified that the main reason for his incorrect response to the financial question in the SF-86 was that he thought he had no delinquent debts. His wife played a major role in paying household bills. He first learned about the debts during his background interview. He then checked his credit for the first time. The Administrative Judge at his previous hearing determined that the Applicant credibly denied that he intentionally provided a false answer. (Tr. 74-75; ISCR Case No. 19-01240, p. 5)

When Department Counsel confronted Applicant with what transpired at his previous hearing, Applicant responded, "Like I say, you already know the answer." (Tr. 75)

Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

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

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

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

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

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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

Analysis

Financial Considerations

AG ¶ 18 articulates the security concern for financial considerations:

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.

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

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

Id. (internal citation omitted).

AG ¶ 19 provides two disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability to satisfy debts;" and "(c) a history of not meeting financial obligations." The record established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

AG ¶ 20 lists five potential mitigating conditions:

(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.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

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

ISCR Case No. 10-04641 at 4 (App. Bd. Sep. 24, 2013).

None of the mitigating conditions fully apply. If Applicant had been down this road for the first time, the result may have been different. The debts in this case are essentially the same debts from his 2020 case. The Administrative Judge in Applicant's 2020 decision relied heavily on Applicant's promises to follow up on a repayment plan for those debts. When the Government pulled Applicant's 2021 credit report, eight collection accounts showed up, which for the most part are the same ones on his 2019 SOR. Again in 2022, there were still a number of those same debts still being listed in collections. Applicant has been gainfully employed since May 2020. Additionally, Applicant received Form 1099-Cs for two of his debts. Although, he is no longer legally required to pay these two debts, defaulting on a debt and waiting for the creditor to issue a Form 1099-C can hardly be viewed as acting in good faith.

With regard to the student loans, Applicant was within his legal rights to take advantage of a COVID-related deferment. However, he took advantage of the deferment not because he fell on hard times, but rather to keep more money for himself. This was an individual who had recently appeared in a DOHA hearing which revolved in large part around these student loans. A few months after receiving his favorable decision, he chose to defer his student loan payments rather than continue to make headway on paying them down.

Personal Conduct

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 information. Of special interest is any failure to provide truthful

and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes one condition that could raise a security concern and may be disqualifying in this case:

(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.

The record established the disqualifying condition in AG ¶ 16(a), requiring additional inquiry about the possible applicability of mitigating conditions. Discussion of the disqualifying conditions is contained in the mitigation section, *infra*.

Seven potential personal conduct mitigating conditions are listed under AG ¶ 17:

(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 improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. 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 caused 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;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's

reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

None of the mitigating conditions are applicable. If this was the first time Applicant was confronted with completing an SF-86, a more favorable outcome may have resulted. However, in this case, the Applicant had gone through a DOHA hearing in which the same falsification allegation was alleged. The Administrative Judge at that hearing gave him the benefit of the doubt. However, to answer the same question three years later with a “No” in response to a straightforward question about his seven-year debt history demonstrates a severe lack of candor and lack of judgment.

I note that Applicant is a college graduate, had a 20-year career in the Marine Corps, and has worked for defense contractors since he was discharged from the Marine Corps in 2004. He has had experience completing SF-86s. His response for failing to provide a truthful answer that the Government already knew the information being sought also demonstrates a lack of candor and lack of judgment.

Whole Person Analysis

In all adjudications, the protection of our national security is the paramount concern. A careful weighing of a number of variables in considering the “whole-person” concept is required, including the totality of his or her acts, omissions, and motivations. Each case is decided on its own merits, taking into consideration all relevant circumstances and applying sound judgment, mature thinking, and careful analysis. Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

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

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

Applicant honorably served in the Marine Corps for 20 years. After his military service, he worked for defense contractors until the present. He is married and has three adult children. He is a homeowner and a productive member of society.

This case is disappointing on many levels. An individual with Applicant's age, experience, and education is unlikely to find himself in a position such as this. The year 2019 should have served as a wake-up call for Applicant. Clearly, he should have recognized that he needed to regain financial responsibility if he wanted to retain his clearance and continue working in the Defense industry. In 2020, he went to a DOHA hearing and the Administrative Judge at that hearing gave him the benefit of the doubt accepting his representations that he would pay his debts and regain financial responsibility. That same Administrative Judge accepted Applicant's explanation regarding the falsification allegation.

However, Applicant apparently did not appreciate the second chance he was given and follow up on his promises to pay off his debts. Nor does not paying one's debts and waiting for them to fall off your credit report demonstrate financial responsibility. Nor does waiting for a creditor to issue a Form 1099-C after failing to pay one's debts. It is also inconceivable that someone would provide false information to the same question three years later.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). Applicant's evidence was sufficient to overcome the *Dorfmont* presumption with respect to the security concerns in the SOR. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant failed to mitigate the Guidelines F (financial considerations) and E (personal conduct) security concerns.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a - 1.e:	For Applicant
Subparagraphs 1.f - 1.h:	Against Applicant
Subparagraphs 1.i - 1.j:	For Applicant
Subparagraph 1.k:	Against Applicant
Subparagraphs 1.l - 1.m:	Withdrawn
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a	Against Applicant

Conclusion

In light of the record as a whole, it is not clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

ROBERT TUIDER
Administrative Judge