



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



In the matter of:)
)
) ISCR Case No. 23-01135
)
Applicant for Security Clearance)

Appearances

For Government: Brittany C. White, Esq., Department Counsel
For Applicant: *Pro se.*

05/21/2025

Decision

HOGAN, Erin C., Administrative Judge:

Applicant did not mitigate the security concerns under Guideline F (financial considerations) and Guideline E (personal conduct). Eligibility for access to classified information is denied.

Statement of the Case

On August 12, 2020, Applicant completed and signed his Electronic Questionnaires for Investigations Processing (e-QIP). (Government Exhibit (GE) 1) On November 9, 2023, the Department of Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and Security Executive Agent Directive 4, establishing in Appendix A the

National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position (AGs), effective June 8, 2017.

The SOR detailed reasons why DCSA CAS did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guidelines F and E. On January 18, 2024, Applicant responded to the SOR and requested a hearing before an administrative judge. The case was assigned to me on September 3, 2024. On November 9, 2023, DOHA issued a notice of hearing, setting the hearing for January 30, 2025. The hearing was held as scheduled via video-teleconference.

During the hearing, Department Counsel offered 23 exhibits, GE 1 - 23, which were admitted without objection. Applicant testified and offered no exhibits. The record was held open until February 13, 2025, to allow Applicant to submit additional exhibits. He timely offered nine documents which were marked as Applicant Exhibits (AE) A – AE I and admitted without objection. On February 10, 2025, DOHA received a transcript (Tr.) of the hearing. The record closed on February 13, 2025.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

Applicant is a 55-year-old employee of a defense contractor. He has worked for his current employer since June 2021. He has worked for defense contractors in the past. He served on active duty in the United States Air Force from December 1987 to December 2021. He retired honorably in the grade of master sergeant (E-7). He is a high school graduate. He has held a security clearance continuously since 2018. Before then, he held a security clearance while serving in the military and while working in prior defense contractor jobs. He was previously married. He has been married to his current wife since 2015. He has three children, ages 32, 15, and 17. (Tr. at 83-84; GE 1; GE 2; AE G)

Guideline F, Financial Considerations

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP), dated August 12, 2020. (GE 1) He previously submitted an e-QIP, dated January

9, 2018. (GE 2) A subsequent background investigation revealed delinquent debts. The SOR alleges nine delinquent debts including a delinquent federal tax debt, an approximate total of \$20,731 for tax years 2018 to 2022 (SOR ¶ 1.a; GE 3 at 22-23; GE 10); delinquent state income tax debt, an approximate total of \$5,159, for tax years 2018-2022 (SOR ¶ 1.b: GE 3 at 23-24); a judgment in the amount of \$4,977, which was entered against Applicant in July 2021 (SOR ¶ 1.c: GE 3 at 10; GE 7 at 14; GE 9); two judgments entered against him on behalf of a condominium association in the amount of \$7,892 and \$3,952 (SOR ¶¶ 1.c – 1.d: GE 2 at 41-42; GE 3 at 8); and a \$758 insurance account placed for collection (SOR ¶ 1.e: GE 4 at 2; GE 5 at 1-2; GE 6 at 2).

Additional delinquent accounts include: a charged-off credit union account in the amount of \$398 (SOR ¶ 1.g: GE 4 at 9; GE 5 at 5; GE 6 at 3; GE 7 at 4); an \$878 furniture store account that was charged off (SOR ¶ 1.h: GE 1 at 47; GE 3 at 8; GE 4 at 5; GE 5 at 5; GE 6 at 2; GE 7 at 13); and a mortgage account that went to foreclosure in 2019 (SOR ¶ 1.i: GE 3 at 9; GE 5 at 10; GE 6 at 2; GE 7 at 2)

Applicant also filed bankruptcy on four occasions starting with a Chapter 7 bankruptcy in June 1996 with a discharge date of September 1996 (SOR ¶ 1.j: GE 11 at 1; GE 14); a Chapter 13 bankruptcy filed in January 1998, which was dismissed in February 1999 for failure to make required plan payments (SOR ¶ 1.k: GE 11 at 2-3; GE 13); a Chapter 13 bankruptcy filed January 2018 and dismissed in March 2018 for failure to commence payments towards the plan (SOR ¶ 1.l: GE 11 at 7-10; GE 12); and a Chapter 13 bankruptcy filed April 2018, that listed approximately \$378,843 in liabilities and was dismissed in December 2018 for failure to make payments. (SOR ¶ 1.m: GE 3 at 11-75; GE 4 at 2; GE 6 at 2; GE 7 at 2; GE 13)

Federal and State Income Tax Debts

SOR ¶ 1.a: Applicant incurred his IRS tax debts as a result of failing to withhold sufficient money to avoid paying taxes. In response to interrogatories dated July 4, 2023, he listed his federal tax debts from 2018 to 2022. He listed the approximate total amount owed to the IRS was \$20,731. (GE 3 at 22-23) The approximate amount of delinquent taxes he owed to the IRS are:

2018: \$6,784.
2019: \$4,594
2020: \$3,571
2021: \$5,795
2022: \$707

After the hearing, he provided a statement from the IRS which indicated that he owed an approximate total of \$39,845.44 in delinquent federal income taxes as of February 20, 2025. (AE B) During the hearing he indicated that he was on a payment plan with the IRS for \$225 monthly payments. He claims that he had making payments over the past 10 months, but did not provide proof of payments. He also testified that the payments were stopped because another federal tax debt was being considered. It appears the IRS payment agreement was adjusted to \$375 monthly payments.

SOR ¶ 1.b: Applicant owed state income taxes for tax years 2018 through 2022, an approximate total balance of \$5,159. In response to interrogatories dated July 4, 2023, he listed his state tax debts from 2018 to 2022. He is not sure whether he filed his state income tax returns on time for tax years 2014 – 2017. (GE 3 at 23-24) He listed his state tax debts as:

2018: \$1,583
2019: \$911
2020: \$1,064
2021: \$1,472
2022: \$149

Applicant entered into a payment plan with the state in November 2024. He agreed to pay \$200 a month. (Tr. 41-43) After the hearing, he provided a bank statement showing that he made payments for his state tax debt in the amount of \$200 in May, June, July, November, and December 2024, and a \$275 payment in February 2025. (AE H) The current total balance of the state income tax debt is unknown.

Bankruptcies

Applicant struggled financially on occasion since 1996. He first filed for bankruptcy in 1996. (SOR ¶ 1.j; GE 11 at 1; GE 14) It was under Chapter 7 of the Bankruptcy Code. He was a young airman and admits he did not manage his money well. He married too young and was going through a divorce during this time. (Tr. 60) He filed for bankruptcy under Chapter 13 in January 1998. (SOR ¶ 1.j; GE 11 at 2-3; GE 13) The bankruptcy was dismissed because he failed to make payments under the plan. During the hearing, he testified he does not remember the reason for the 1998 bankruptcy. (Tr. 60-62)

In January 2018, Applicant filed for bankruptcy under Chapter 13. The bankruptcy was dismissed in March 2018 based on his failure to commence payments under the proposed Chapter 13 plan.(SOR ¶ 1.l: GE 12) Applicant testified that he filed for

bankruptcy because he was unable to pay his bills after being terminated from his position with DOD Contractor B in May 2017, which is alleged in SOR ¶ 2.f and will be discussed further under the Personal Conduct section. He initially filed for bankruptcy in hopes of saving his home. (Tr. 62-63)

In April 2018, he filed for Chapter 13 bankruptcy again. (SOR ¶ 1.m: GE 11 at 11 at 11-75) The bankruptcy listed approximately \$378,843 in liabilities. He claims that the first and second bankruptcy should be the same bankruptcy. His lawyer had made some mistakes in the initial bankruptcy. It was refiled a month after being dismissed. In January 2019, the second Chapter 13 bankruptcy was dismissed for failure to make the required payments under the Chapter 13 plan. (Tr. 62-63)

Consumer Debts

The status of the consumer debts alleged in SOR ¶¶ 1.c – 1.i are:

SOR ¶ 1.c: \$4,977 judgment entered against Applicant in July 2021: Applicant testified that this was a loan. He is making payments. After the hearing, he provided a statement from the debt collector indicating that since July 2021, he has paid a total of \$3,450 towards this debt. The payment history does not appear to be on a consistent monthly basis. The current balance of \$2,304 includes interest and costs. (Tr. 47-48; AE H)

SOR ¶¶ 1.d and 1.e: two unpaid judgments entered against Applicant by the homeowner's association (HOA) of a condominium that he used to live in. One judgment was entered against him in August 2020 in the approximate amount of \$7,892. The other judgment was entered against him in July 2017, in the approximate amount of \$3,952: Applicant testified he no longer lives in the condominium because it went into foreclosure. He claims to have made some payments towards these judgments. The judgments were for both HOA fees and condominium fees. He moved out in 2018, and the condominium was foreclosed in 2019. He testified that he tries to make \$250 payments towards these two debts. Sometimes, he pays less or more based upon his finances. (Tr. 49-52) After the hearing, he provided a receipt of a \$200 payment on May 2, 2024. (AE A) The balance of the two judgments was not provided at the close of the record.

SOR ¶ 1.f: \$758 delinquent insurance bill placed for collection: Applicant disputes this debt. He claims he switched insurance companies and his former insurance company continued to bill him for a month and a half. He testified he disputed this debt and it was removed from his credit report. (Tr. 52-53) After the hearing, he provided a credit report dated February 18, 2024, which lists the debt's status as paid and closed. (AE D at 19)

The debt is also listed as paid and closed on a credit report, dated February 28, 2024, which was provided by the Government. (AE 4 at 2) This allegation is found for Applicant.

SOR ¶ 1.g: \$398 charged-off credit union account: Applicant testified that he tried to pay the credit union, but they claimed the debt was already charged-off. He still has two open accounts with the credit union. (Tr. 54) The status of the debt is unknown.

SOR ¶ 1.h: \$878 charged-off debt related to a furniture store account: Applicant disputes this account. He claims he does not owe any money to this creditor. He claims it was disputed and removed from his credit reports. A credit report dated February 28, 2024, lists the debt as past due. The debt became delinquent in September 2017. Applicant provided a partial copy of a credit report, dated February 19, 2025. The debt is no longer listed. It is unclear whether the debt was paid or if was deleted from the credit report because of the seven-year statute of limitations. (Tr. 55 -56; GE 4 at 5; AE D)

SOR ¶ 1.i: Mortgage foreclosure in 2019: This is the foreclosure related to Applicant's condominium. He testified after he was laid off in May 2018, he had a difficult time finding a good job. He worked several low-paying jobs while looking for other work. His income was not enough to pay the bills. He had no choice and let the condominium go to foreclosure. (Tr. 56-58)

Applicant was unemployed for six months after he was terminated in May 2018. He and his family moved out of the condominium and moved to a smaller two-bedroom condominium in the same community. It is cheaper and within his means. (Tr. 58, 64)

Applicant currently earns \$151,000 annually. His monthly income is \$8,650. He also receives a \$2,800 military pension and \$3,900 in Veterans Administration (VA) disability pay. His total monthly income is \$15,340. His total monthly expenses are \$11,382. After expenses, he should have \$3,958 left over each month after expenses. His wife was unemployed at the time of the hearing. She was on disability. (Tr. 86; AE C)

Guideline E, Personal Conduct

Under Personal Conduct, the alleged concerns include:

SOR ¶ 2.a: All of the allegations under Guideline F were cross alleged under the Personal Conduct concern.

SOR ¶ 2.b: In January 1998, while serving on active duty in the Air Force, he received Article 15 nonjudicial punishment for violations of Article 92 of the Uniform Code of Military Justice (UCMJ) for misuse of his government credit card for personal purposes, and Article 134 UCMJ for failure to pay the debt owed on his government credit card. (GE 3 at 5; GE 19) Applicant admits this allegation.

SOR ¶ 2.c: In July 2001, while serving on active duty in the Air Force, he received Article 15, nonjudicial punishment for a violation of Article 128 of the UCMJ for unlawful assault on another. (GE 3 at 5; GE 18) Applicant admits this allegation but denies assaulting his girlfriend. He testified he was at a club with his girlfriend. She was intoxicated and he pulled her away from a fight. (Tr. 67)

SOR ¶ 2.d: In July 2006, he was arrested and charged with battery, touch or strike (domestic violence). He received a pre-trial diversion program. (GE 3 at 6; GE 17; GE 20 at 9) Applicant admits he was arrested, but disputes that he assaulted his girlfriend. He was at a club. His girlfriend came to the club with her friends. She saw him dancing with another woman. She caused a scene at the club. When Applicant got home, he claims his girlfriend assaulted him. He denies touching her. He has had no assault and battery issues since 2006. (Tr. 68-70)

SOR ¶ 2.e: In January 2017, he was arrested and charged with driving while intoxicated (DWI) first offense; and possession of marijuana. He was found guilty of DWI and was sentenced to 30 days confinement (suspended); one year of supervised probation; and ordered to pay fines and court costs. (GE 1 at 36-37; GE 2 at 34-35; GE 3 at 7, 17-18; GE 15; GE 16; GE 20 at 12) Applicant's fraternity brothers were visiting. He went out with them. He had a few drinks but did not think he was too drunk to drive. He drove his friends to the hotel they were staying at. While driving home he became drowsy, parked the car on the side of the road, and fell asleep at the wheel. The police discovered him sleeping in the car and arrested him for DWI. The police report indicated the arresting officers noticed a strong odor of marijuana. They searched the car and found a small baggie of marijuana in the locked glove compartment of the car. Applicant admits to the DUI, but vehemently denies that he has ever smoked marijuana. He claims the marijuana in the glove compartment belonged to one of his friends. He completed all of the terms of his sentence and has not been arrested. He occasionally drinks, but never drinks alcohol and drives. He usually drinks at home. He never drinks to intoxication. (Tr. 70 – 73)

SOR ¶ 2.f: In May 2017, Applicant was terminated from his employment with DOD contractor B based on his misuse of information technology; and over-reporting his time charged to the Government. (GE 1 at 48; GE 2 at 12-46; GE 3 at 5-6; GE 21; GE 21; GE

22; GE 23) He admits he was terminated by Contractor B for misuse of information technology but denies over-reporting his time charged to the Government.

In March 2017, it was discovered via a computer scan the Applicant had sexually explicit stories about prostitution on his government computer. Forensic analysis revealed evidence of approximately 25 pages of sexually explicit stories on his government computer. The forensic analysis also revealed that he was using an account on a third-party website which was a review service for adult entertainers. In conjunction with the forensic review, a time analysis was performed to determine whether a theft of time was occurring. The results indicated Applicant over-reported his labor hours by approximately 11.6 percent or .9 hours a day on average. He was confronted about the explicit erotic stories on his government computer. He admitted to writing the explicit erotic stories in an effort to publish a novel. He started writing these erotic stories on his government computer over the lunch hour. He admitted to sharing these stories with friends on the internet. (GE 21)

After Applicant was interviewed by officials of DOD Contractor B, they did some additional investigating to fully understand the facts of the situation. Their investigation substantiated that 1) Applicant was not following company procedures regarding the appropriate use of computer resources by writing and storing inappropriate material and 2) he was not properly reporting time charged to the contract. They reviewed five weeks of time reporting between December 2016 and March 2017. The review concluded time was over-reported by 11.6%. Applicant was terminated on May 10, 2017. (GE 22)

Falsification of Security Clearance Applications

Applicant denies all falsification allegations. He asserts that he did not deliberately attempt to mislead or falsify his answers on his January 2018 and August 2022 security clearance applications and that it was an oversight.

SOR ¶ 2.g: Applicant falsified material facts on his January 2018 e-QIP in response to “Section 26 – Financial Record – Taxes: In the last seven (7) years, have you failed to file or pay Federal, state, or other taxes when required by law or ordinance?” when he answered, “No.” He deliberately failed to disclose that he had not filed Federal tax returns for tax years 2012 through 2014. (GE 2)

SOR ¶ 2.h: Applicant falsified material facts on his January 2018 e-QIP in response to “Section 22 – Police Record: In the last seven (7) years, have you been charged, convicted, or sentenced of a crime in any court?” Although he disclosed his 2017 arrest,

as set forth in SOR ¶ 2.e, above, he only disclosed his DWI charge and failed to disclose that he was also charged with possession of marijuana. (GE 2) Applicant was found guilty of the DWI charge. The marijuana possession charge was dropped.

SOR ¶ 2.i: Applicant falsified material facts on his August 2020 e-QIP in response to “Section 26 – Financial Record – Taxes: In the last seven (7) years, have you failed to file or pay Federal, state, or other taxes when required by law or ordinance?” when he answered, “No.” He deliberately failed to disclose his delinquent Federal and state taxes for tax years 2018 through 2019, as set forth in SOR ¶¶ 1.a and 1.b. (GE 1)

SOR ¶ 2.j: Applicant falsified material facts on his August 2020 e-QIP in response to “Section 22 – Police Record: In the last seven (7) years, have you been charged, convicted, or sentenced of a crime in any court?” Although he disclosed his 2017 arrest, as set forth in SOR ¶ 2.e, above, he only disclosed his DWI charge and failed to disclose that he was also charged with possession of marijuana. (GE 2) He was found guilty of the DWI charge. The marijuana possession charge was dropped.

Whole-Person Evidence

Ms. K.M., Applicant’s team lead, wrote a statement on his behalf. She describes his performance as exemplary. His dedication, professionalism, and commitment to excellence have advanced goals and improved communication. His innovative approach to solving complex problems and ability to deliver high-quality results was invaluable to our team’s success. She recommended him for a cash award. (AE I)

Applicant’s awards during his active duty service in the United States Air Force include the Joint Service Commendation Medal, Air Force Commendation Medal with 2 oak leaf clusters, Air Force Achievement Medal with one oak leaf cluster, Meritorious Unit Award with 2 oak leaf clusters; Air Force Outstanding Unit Award with Valor device with 2 oak leaf clusters, Good Conduct Medal with 6 oak leaf clusters, National Defense Service Medal with service star, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, AF Overseas Ribbon Long, AF Longevity Service Medal with 5 oak leaf clusters, USAF PME Graduate Ribbon with 1 oak leaf cluster, and AF Training Ribbon. (AE G)

Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive

5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

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

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

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

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

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

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

Analysis

Guideline F, Financial Considerations

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

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

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

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant has a history of financial problems and delinquent debts. He filed for bankruptcy on four occasions, one time under Chapter 7 and three times under Chapter 13. It is noted that the two Chapter 13 bankruptcies in 2018 were part of the same process. The Chapter 13 was dismissed and refiled to correct an error in the earlier bankruptcy. All of the Chapter 13 bankruptcies were dismissed for failure to make payments towards the plan. Applicant owes a significant amount of federal and state

income taxes and has six delinquent accounts and a mortgage foreclosure. AG ¶¶ 19(a) and 19(c) are applicable. AG ¶ 19(f) applies because he owes over \$34,000 in delinquent federal income taxes for tax years 2018 – 2022 and over \$5,100 in delinquent state income taxes for tax years 2018 – 2022.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

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

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

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

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

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶ 20(a) does not apply. Applicant has a long history of financial problems and his problems remained significant at the close of the record.

AG¶ 20(b) partially applies because Applicant suffered a period of unemployment and underemployment in the 2017 to 2018 timeframe. This mitigating condition is given less weight because he was terminated for cause in May 2017. He also continued to incur delinquent debt after he became fully employed. Most concerning is his failure to pay federal and state income taxes for tax years 2018 through 2022. I cannot conclude he acted responsibly under the circumstances.

AG ¶ 20(c) does not apply. Applicant has not sought the assistance of a legitimate and credible financial counselor. There are no clear indications that his financial issues are being resolved or under control.

AG ¶ 20(d) partially applies to the debts alleged in SOR ¶¶ 1.c and 1.f. He provided proof that he resolved the debt alleged in SOR ¶ 1.f and is making significant payments towards the debt alleged in SOR ¶ 1.c. He made a payment towards the two HOA judgments (SOR ¶¶ 1.d and 1.e). However, he did not provide information about the current balance of both judgments. I am unable to conclude he has made significant progress towards paying these judgments. It appears he has made significant progress towards paying the state tax debts. More concerning is the federal tax debt. While he entered into a repayment agreement with the IRS about ten months ago, the IRS stopped the repayment plan because he incurred another tax debt. They recently increased the monthly payment on his repayment plan. It is too soon to conclude that he will be able to make regular monthly payments toward this debt. The debts alleged in SOR ¶¶ 1.g and 1.h remain unresolved at the close of the record.

AG ¶ 20(g) does not apply. While Applicant has entered arrangements with the federal and state tax authorities to resolve his delinquent tax debt, not enough information was provided about the tax debts, such as documented history of payments made towards the federal and state tax debts for tax years 2018 – 2022. Applicant appears to be making payments towards the state tax debt and recently entered into a payment plan for the federal tax debt, but the record is unclear as to whether he is making regular payments on each plan on a monthly basis. He has a long history of filing for bankruptcy. Based on his past financial record, it is too soon to conclude Applicant will successfully complete the repayment plans.

While Applicant is taking steps to resolve his financial problems, the evidence is insufficient for a determination that his financial problems will be resolved within a reasonable period. I am unable to find that he acted responsibly under the circumstances. His financial issues are recent and ongoing. They continue to cast doubt on his current reliability, trustworthiness, and judgment. None of the mitigating conditions are sufficient to fully mitigate the financial considerations security concerns.

Guideline E, Personal Conduct

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

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 clearance investigative or adjudicative processes.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personal 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;

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

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

I find SOR ¶ 2.a for Applicant. It cross-alleged all of the allegations under Guideline F. I find the cross-allegation to be redundant. The financial issues are more appropriately addressed under the Guideline F concern.

AG ¶ 16(a) applies with respect to SOR ¶¶ 2.g and 2.i in relation to his deliberate omission of his delinquent federal in state taxes in response to Section 26 – Financial Record – Taxes on both his January 2018 and August 2020 e-QIP applications. I find for Applicant with respect to the alleged falsification in SOR ¶¶ 2.h and 2.j in response to the questions under “Section 22 – Police Record: In the last seven years have you been

charged, convicted, or sentenced of any crime in court?” Applicant listed his June 2027 arrest for DWI but failed to allege he was charged with Possession of Marijuana. I find this omission to be immaterial. The marijuana charge would have shown up on his arrest report. Applicant also believed he did not have to list the marijuana charge because it was dismissed. I find his explanation reasonable.

Applicant’s disciplinary history while on active duty in the Air Force (SOR ¶¶ 2.b – 2.d); his January 2017 arrest and conviction for DWI (SOR ¶ 2.e); and his May 2017 termination from Contractor B for misuse of information technology and overreporting time charged to the government (SOR ¶ 2.f) raise concerns under AG ¶ 16(c) about his judgment, trustworthiness and reliability which raises issues about whether he will properly safeguard classified information. The SOR allegations in SOR ¶¶ 2.b – 2.f also raised AG ¶ 16(e). His history of questionable conduct makes him vulnerable to exploitation, manipulation, or duress.

AG ¶ 17 provides conditions that could mitigate security concerns. 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
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶ 17(a) does not apply with respect to Applicant’s deliberate omission of his federal and state tax issues as alleged in SOR ¶¶ 2.g and 2.i. There is insufficient evidence in the record that Applicant made a prompt, good-faith effort to correct the omission before being confronted with the facts. I do not find credible Applicant’s explanation that he failed to list his federal and state tax issues on his January 2018 and August 2020 e-QIP applications due to oversight. He also did not provide documentation that he filed his federal tax returns for tax years 2012 to 2014. The concerns raised under SOR ¶¶ 2.g and 2.i are not mitigated.

AG ¶ 17(c) applies to the allegations in SOR ¶¶ 2.b – 2.f due to the passage of time without repeat behaviors. While Applicant’s termination for misuse of a government computer, *i.e.* writing erotic stories, and over-reporting time charged to the Government is concerning, more than eight years have passed since this occurrence. Applicant learned a difficult lesson. He was fired and his misconduct caused additional financial issues for him. There were no misconduct issues in his subsequent employment records.

AG ¶ 17(e) applies to the allegations in SOR ¶¶ 2.b – 2.f because Applicant’s cooperation with the government during his background investigation reduced his vulnerability to exploitation, manipulation, or duress.

As mentioned above, I find SOR ¶¶ 2.a – 2.f, 2.h, and 2.j for Applicant. A security concern remains under Guideline E SOR ¶¶ 2.g – 2.i with regard to Applicant’s deliberate omission of federal and state issues on his 2018 and 2022 e-QIP applications. The concerns under Personal Conduct are not mitigated.

Whole-Person Concept

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

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guidelines E and F in my whole-person analysis.

I considered Applicant’s honorable service and retirement from the U.S. Air Force. I considered the favorable recommendations of his Team Lead. While Applicant is

attempting to resolve his delinquent debts and his federal and state tax issues, it is too soon to conclude he will be able to resolve these issues in light of his history of multiple bankruptcies, the neglect of his federal and state taxes and other debts for years. Applicant's history of financial problems remains a security concern under Guideline F.

I find security concerns remain under Personal Conduct. Applicant's deliberate omission of his federal and state tax debts on his January 2018 and August 2020 e-QIP applications raise questions about his trustworthiness and reliability. Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance at this time.

Formal Findings

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

Paragraph 1, Guideline F:	Against Applicant
Subparagraphs 1.a-1.b, 1.d-1.e, 1.g, 1.h, 1.j-1.m	Against Applicant
Subparagraphs 1.c, 1.f, 1.i	For Applicant
Paragraph 2, Guideline E:	Against Applicant
Subparagraphs 2.a – 2.f, 2.h, 2.j:	For Applicant
Subparagraphs 2.g, 2.i:	Against Applicant

Conclusion

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

Erin C. Hogan
Administrative Judge