

KEYWORD: Financial: Criminal Conduct: Personal Conduct

DIGEST: Applicant incurred significant delinquent debt that he has only recently started to repay. He was not candid about his financial delinquencies on his October 2004 security clearance application. Applicant has not yet proven that he can handle his finances responsibly or that his representations can be relied on. Clearance is denied.

CASENO: 06-17878.h1

DATE: 05/31/2007

DATE: May 31, 2007

In re:)	
)	
-----)	
SSN: -----)	ISCR Case No. 06-17878
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
ELIZABETH M. MATCHINSKI**

APPEARANCES

FOR GOVERNMENT

J. Theodore Hammer, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant incurred significant delinquent debt that he has only recently started to repay. He was not candid about his financial delinquencies on his October 2004 security clearance application.

Applicant has not yet proven that he can handle his finances responsibly or that his representations can be relied on. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on December 15, 2006, detailing the basis for its decision—security concerns raised under Guideline F (Financial Considerations), Guideline J (Criminal Conduct), and Guideline E (Personal Conduct) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense effective September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued. Applicant answered the SOR on January 4, 2007, and elected to have a determination on the written record without a hearing. The government submitted a File of Relevant Material (FORM) on March 19, 2007, consisting of 11 exhibits (Items 1-11). The government also moved at that time to amend the SOR by deleting specific page references in SOR ¶ 2.a, modifying the language in SOR ¶ 2.b to correct the date and nature of the charges and punishment in a July 2, 1996 proceeding under Article 15 of the Uniform Code of Military Justice, and to delete SOR ¶ 2.d. On March 21, 2007, DOHA forwarded a copy of the motion and FORM to Applicant and instructed him to respond to the motion within 20 days of receipt and to the FORM within 30 days of receipt.¹ Applicant filed a timely rebuttal on April 9, 2007, to which the government did not object. The case was assigned to me on April 17, 2007, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant.

RULINGS ON PROCEDURE

On the issuance of the FORM, the government moved to amend the SOR under Guideline J, to delete ¶ 2.d and omit from ¶ 2.a the references to specific page numbers, and to modify ¶ 2.c to read as follows:

2.c. You received Non-Judicial Punishment under Article 15 of the Uniform Code of Military Justice on or about July 2, 1996 for the offenses (1) Assault, (2) Sodomy and (3) Adultery. Your punishment was a reduction in grade, forfeiture of \$250 pay, extra duty for 14 days, and restriction for 14 days.

Authority to consider the motion is set forth in ¶ E3.1.10 of Department of Defense Directive 5220.6 (*The Administrative Judge may rule on questions of procedure, discovery, and evidence and shall conduct all proceedings in a fair, timely, and orderly manner*). The government is not

¹There is no explanation why the government gave Applicant only 20 days from receipt to respond to the motion when he was given 30 days from receipt to respond to the FORM which is required under the Directive.

precluded from raising issues of potential security concern, even at the hearing level, provided the proposed allegations have a reasonable basis, are not confusing, and are relevant to a determination of Applicant's suitability (*see* ¶ E3.1.17 *The SOR may be amended at the hearing to render it in conformity with the evidence admitted or for other good cause*). Absent a valid, compelling basis to deny the motion, the amendment will be granted.

Due process requires that Applicant be given adequate notice and opportunity to respond. Applicant had timely notice of the proposed allegations and in his rebuttal to the FORM did not respond directly to the motion to amend. Accordingly, the SOR is amended as requested by the government in its motion of March 19, 2007.

FINDINGS OF FACT

DOHA alleged in the SOR under Guideline F that Applicant owed delinquent debt totaling \$17,227 (¶¶ 1.a - 1.j) that had not been paid by September 25, 2006 (¶¶ 1.a, 1.f, 1.h, 1.j) and/or November 28, 2006 (¶¶ 1.b, 1.c, 1.d, 1.e, 1.g, 1.i). Under Guideline J, as amended, Applicant was alleged to have been charged in December 1997 with felony sexual assault (dismissed) (¶ 2.a), to have been charged with domestic violence/disorderly conduct in May 1997 (¶ 2.b), to have received non-judicial punishment in July 2006 for assault, sodomy, and adultery (¶ 2.c), and to have committed a felony violation of 18 U.S.C. § 1001 by deliberately falsifying his October 2004 security clearance application (SF 86) (¶ 2.e). Guideline E concerns were also raised concerning his alleged deliberate failure to disclose his December 1997 arrest and his delinquent debts on his SF 86 (¶¶ 3.a, 3.b, and 3.c).

In his Answer, Applicant indicated the debts had been paid in full or settled for less than the full balance. He admitted he had responded "No" to the inquiries on his October 2004 SF 86 concerning any felony offenses, any financial delinquencies over 180 days in the past seven years, and any debts currently over 90 days delinquent, but he denied knowing and willful falsification. He did not respond directly to the criminal conduct allegations other than to indicate that he had been found innocent of the charge alleged in ¶ 2.a.² After a thorough consideration of the documentation presented for review, I make the following findings of fact.

Applicant is a 32-year-old electronics technician who has worked for his current employer, a defense contractor, since September 2004. He seeks a security clearance for his duties on a U.S. military base.

Applicant and his spouse married on July 1, 1993. That same day, he entered on active duty in the U.S. Army. While he was in the military, he held a Secret-level security clearance, which was granted to him in early September 1993. On May 31, 1996, his spouse filed a complaint with the military police that Applicant had assaulted her (pushed her and struck her) during a domestic altercation. On July 2, 1996, Applicant received non-judicial punishment under Article 15 of the Uniform Code of Military Justice for the assault of his spouse on May 31, 1996, and for sodomy and having sexual intercourse (adultery) with a female private not his spouse between January 13, 1996

²In the FORM, Department Counsel indicated he elected to not return the SOR to Applicant to answer the allegations, as it would have unnecessarily delayed a determination of the case.

and April 27, 1996. Applicant was reduced in grade to private first class, given 14 days extra duty, placed on 14 days restriction, and ordered to forfeit \$250 pay. All punishments but the extra duty were suspended, to be automatically remitted if not vacated before January 1, 1997.

While he was still in the service, Applicant was arrested by civilian authorities on or about May 31, 1997, and charged with domestic violence/disorderly conduct. No disposition is reflected in the record.

After his four years of active duty ended in early July 1997, Applicant returned to his hometown with his spouse where he was unemployed until April 1998. On December 6, 1997, Applicant was arrested on a capias and charged with sexual assault/battery on physically helpless, a felony offense. The charge was nolle prossed on April 23, 1998.

From April 1998 to late May 2003, Applicant worked as a facility technician for the telephone company until he was laid off. He was unemployed until mid-September 2004, when he started with his current employer. Needing a clearance for his duties, Applicant executed a security clearance application (SF 86) on October 12, 2004. He responded negatively to police record inquiries, including question 21 [“Have you ever been charged with or convicted of any felony offense? (Include those under the Uniform Code of Military Justice.) For this item, report information regardless of whether the record in your case has been ‘sealed’ or otherwise stricken from the record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607.”]. He also answered “NO” to inquiries into his financial record, including question 38 [“In the last 7 years, have you been over 180 days delinquent on any debt(s)?”] and question 39 [“Are you currently over 90 days delinquent on any debt(s)?”].

A check of Applicant’s credit on November 16, 2004, revealed several accounts had been charged off and/or placed for collection:

- A \$2,233 past due balance was owed on a computer debt that had been placed for collection in about March 2003 (¶ 1.d).
- A \$50 past due balance was owed to the assignee of a telephone debt in collection since December 1998 (¶ 1.a).
- A \$1,608 past due balance on an automobile loan had been placed for collection in about April 2004 (not alleged).
- A retail charge account with a high credit of \$555 was placed for collection in October 2000. That account had a past due balance of \$715 as of June 2004 as reported by a successor assignee (¶ 1.e).
- A retail charge account with a high credit of \$1,310 had been placed for collection in 2002 and had a past due balance of \$2,165 as of October 2004 (not alleged).

- A personal loan was listed as past due in the amount of \$1,140 on a balance of \$1,344 delinquent since April 2002 (¶ 1.h). A second installment loan with the same creditor, delinquent since May 2002, was reported to have a \$1,268 balance as of September 2004. (¶ 1.f)
- A credit card account opened in September 1994 was placed for collection in June 2000. As of October 2004, the debt balance was \$1,475 (¶ 1.b)
- A credit card account was placed for collection in 2002 with a past due balance of \$560 (¶ 1.i.)
- A mortgage company was awarded a judgment against Applicant in the amount of \$1,795 in May 2003 (not alleged). A \$1,711 past due balance had been in collection since September 2002. Two other accounts were listed with the same lender that had been refinanced and rated “pays as agreed.”
- A credit card debt of \$2,542, originally placed for collection in 2002, was reported as 120 days or greater past due and in collection status (¶ 1.g).
- A collection agency was reporting a debt balance of \$6,460 on an individual installment loan debt placed in January 2003 (¶ 1.j), although it appeared to be the same account as that in ¶ 1.g.
- A \$167 telephone services debt was listed as unpaid and in collection since September 2004 (likely ¶ 1.c).
- A cellular phone debt of \$303, assigned for collection in March 2004, was listed as unpaid (not alleged).

During a subject interview of February 10, 2006, Applicant expressed a willingness to resolve his indebtedness. A subsequent check of Applicant’s credit on July 31, 2006, revealed that Applicant had settled the \$167 telephone debt (¶ 1.c), the \$2,165 retail charge card debt, and the \$1,608 auto loan debt. He was reported to owe balances of \$1,475 on ¶ 1.b, \$2,455 on ¶ 1.d, \$907 on ¶ 1.e, \$871 to the assignee of ¶ 1.i (also listed as \$560 to the original creditor), \$2,367 on ¶ 1.g, and \$1,711 to the mortgage company, which had been awarded a judgment of \$1,795 (not alleged). Two other accounts with the same lender were listed as closed or paid.

On September 25, 2006, in response to financial interrogatories from DOHA, Applicant provided evidence showing that he owed a zero balance on a loan with the mortgage company, but on an account that had been closed with a zero balance as of November 2001. As for the computer debt in collection since March 2002 (¶ 1.d) and the \$871 credit card debt in collection since September 2002 (¶ 1.i), Applicant indicated he had arranged to repay the debts, at \$50 to \$100 per month on the former and \$50 per month on the latter. He indicated he had paid the \$50 telephone debt (¶ 1.a) in March 2006, the \$1,608 delinquent balance of the automobile loan in February 2006 (not alleged), the \$907 retail debt (¶ 1.e) in September 2006, and the \$1,475 credit card debt (¶ 1.b) in March 2006. He also maintained that he had paid the \$506 charged off balance originally owed

on ¶ 1.i,³ and that he had settled the \$2,165 retail debt (not alleged) in early 2006. Applicant claimed not to recognize some of the debts that had been on his credit report, *i.e.*, the \$1,268 (¶ 1.f), \$1,344 (¶ 1.h), \$1,711 (not alleged), \$2,367 (¶ 1.g), and \$6,460 (¶ 1.j). He indicated he had zero balances on two other accounts (the \$281 and \$303 collection balances), but provided no payment dates. Applicant furnished DOHA with a personal financial statement reflecting net monthly income with his spouse's salary of \$3,400, monthly expenses of \$2,000, and debt payments of \$100 on ¶ 1.d and \$500 to ¶ 1.i.

A check of Applicant's credit on November 28, 2006, showed outstanding balances of \$1,475 on ¶ 1.b, \$2,501 on ¶ 1.d, \$921 on ¶ 1.e, \$2,367 on ¶ 1.g, and \$2,112 on the installment loan with the mortgage company (not alleged).⁴ The credit bureau reported the debt in ¶ 1.i as settled and failed to substantiate the alleged outstanding balances of ¶¶ 1.f, 1.h, and 1.j.

In answer to the SOR, Applicant indicated that the debts alleged had been paid in full or settled, although he contested the amount of the debt in ¶ 1.j. A subsequent credit report of March 7, 2007, confirmed Applicant had brought the balance of ¶ 1.g down to \$192, but the computer debt (¶ 1.d) had increased to \$2,527, and he still owed a delinquent balance of \$1,475 on ¶ 1.b. Applicant was also reported to owe a charged off balance of \$1,711 as of February 2007 to the mortgage lender. The previously reported delinquent balance of \$921 (¶ 1.e) was no longer on his credit report.

Concerning the alleged falsification of his SF 86 for failure to disclose his financial delinquencies in response to question 38 (financial delinquencies over 180 days in the past seven years), Applicant stated on January 5, 2007:

Seven years prior to 2004 I was almost sure that I was not over 180 days delinquent on any accounts that I knew of. I in no way deliberately disclosed info. Even though I experiend [sic] a short period of unemployment during the period of 2002-2003 I tried to keep all accounts up to date. All accounts are up to date and/or paid in full as of Dec. 2006. Credit report may not be accurate and updated.

He also denied deliberate falsification of question 39 (debts currently over 90 days delinquent) on his October 2004 SF 86, explaining that "some accounts were brought to [his] attention after the completion of the questionnaire." Applicant attributed his denial of any felony arrests to his belief that he was not required to disclose the arrest since he had not been convicted ("Apparently I didn't pay close enough attention to the question and since I was innocent of the charges and not convicted. I thought I had given the correct answer.").

In rebuttal to the FORM, Applicant indicated on April 9, 2007, that he "simply slipped [sic] on a few accounts hoping to make up the payments the next billing cycle." Citing commuting costs and car expenses that have since been reduced, he expressed his intent to get accounts up to date,

³The credit report of July 31, 2006, shows the original debt balance of \$560 placed in collection. A collection agency reported a debt of \$560 placed in September 2002 which had an updated balance of \$871, so these appear to be the same account.

⁴While the credit bureau reported a \$281 balance owed on a telephone debt in collection (¶ 1.c), it indicated in the collection section under the name of the original creditor that a settlement had been accepted on the account.

although he also indicated that he had cleared or paid most accounts. Applicant denied any validity to the 1997 felony charge and averred he had been cleared after he took a lie detector test (“I was at the wrong place, in the wrong situation, and it should have never happened.”).

POLICIES

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has “the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.” *Id.* at 527. The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

CONCLUSIONS

Guideline F—Financial Considerations

Failure or inability 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 information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. (AG ¶ 18). A credit bureau reported in November 2004 that Applicant owed about \$22,685 in delinquent debt. In his response to interrogatories, he claimed in September 2006 to not recognize the indebtedness alleged in ¶¶ 1.f, 1.g, 1.h, 1.j, and to owe nothing to the creditor reportedly awarded a \$1,795 judgment. His July 2006 credit report showed balances of \$2,367 on ¶ 1.g and \$1,711 to the mortgage financier (not alleged), but the others he questioned were not listed on his more recent credit reports. The government suggests those debts were likely “dropped off” because of the length of time they had gone unpaid, but provided no support for such an inference. Favorable findings are returned as to those debts not adequately established. Yet, there is sufficient substantiation of the delinquent debt totaling about \$9,786 as of July 2006 (\$1,475 ¶ 1.b, \$2,455 ¶ 1.d, \$907 ¶ 1.e, \$2,367 ¶ 1.g, \$871 ¶ 1.i, and \$1,711 to the mortgage company for a loan that was not alleged). Potentially disqualifying conditions (DC) 19(a) *inability or unwillingness to satisfy debts* and 19(c) *a history of not meeting financial obligations*, apply. His sizeable consumer

credit debt implicates DC 19(e) *consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and/or other financial analysis.*

Applicant cited his unemployment as well as vehicle repair and commuting expenses as causes of his indebtedness. Lack of income is an extenuating circumstance contemplated within mitigating condition (MC) ¶ 20(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, or a death, divorce or separation)*, but most of these debts became delinquent between 1998 and 2003 when Applicant was gainfully employed as a facility technician for the telephone company. In response to the FORM, Applicant admitted he had “neglected the importance of credit and accounts.” While subsequent unemployment from June 2003 to September 2004 is a factor that extenuates his failure to address his debts during that time, Applicant is required to act responsibly under the circumstances for MC ¶ 20(b) to apply. Responsible financial behavior includes arranging to repay indebtedness when in a position to do so. Before the SOR was issued, he paid and/or settled for less than the full balance the \$50 telephone debt (¶ 1.a), a department store charge debt of \$2,165 and the \$1,608 delinquent auto loan balance (neither debt alleged), the \$560 credit card debt (collection balance \$871 ¶ 1.i), as well as the debt in ¶ 1.c. By March 2007, he had reduced the balance of the debt in ¶ 1.g from \$2,542 to only \$192.

There is a valid basis to apply MC ¶ 20(d), *the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*, and findings are returned for Applicant as to those debts that have been settled. Nonetheless, I am unable to conclude that his financial mismanagement is safely in the past. Although the Directive does not require that he be debt free, his claims of monthly payments on the computer (¶ 1.d), and of satisfaction of ¶ 1.b are not supported in the record. His March 2007 credit report also shows a delinquent balance of \$1,711 owed the mortgage lender on an account ending in 9301. While he provided evidence showing a zero balance on an account with that lender, the principal balance of that loan (ending in 9901) was paid off in December 2001 by a new loan. The credit reports show the account ending in 9901 was refinanced, and the delinquent account, which ends in 9301, was not opened until September 2002. The latest credit reports lists unaddressed delinquency in excess of \$5,700 and Applicant has failed to prove that he does not owe it.

Guideline J—Criminal Conduct and Guideline E—Personal Conduct

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations. (AG ¶ 30). In the SOR as amended, DOHA alleged Applicant committed criminal conduct because of his arrests in December 1997 for felony sexual assault and in May 1997 for domestic violence/disorderly conduct, his receipt of non-judicial punishment in July 1996 for assault on his spouse, and sodomy and adultery with a female service member, and his knowing and willful concealment of his felony arrest and delinquent debts from his SF 86. Applicant maintains his innocence of the December 1997 felony charge. He did not respond to the alleged domestic violence charge filed in May 1997. The government did not meet its burden of proving misconduct in either instance, even though a criminal arrest is enough to trigger DC ¶ 31(c), *allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted, or convicted.* Applicant's commanding officer determined the May 1996 domestic assault and sodomy

and adultery between January and April 1996 warranted non-judicial punishment that Applicant chose to not appeal, and DC ¶ 31(a), *a single serious crime or multiple lesser offenses*, applies because of that misconduct.

Consideration of MC ¶ 32(c), *evidence that the person did not commit the offense*, is warranted, given Applicant was not convicted of either of the 1997 charges and culpability was not otherwise proven. As for the 1996 offenses, ten years have passed with no recurrence, which would be sufficient to satisfy the first prong of MC 32(a), *so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment*, but for the fact that this misconduct cannot be viewed in isolation from his more recent felonious false statements.

Applicant responded “No” to question 21 on his October 2004 SF 86 about whether he had ever been charged with or convicted of a felony offense, even though he had been arrested for a felony sexual assault in December 1997. He denied deliberately falsifying that question, and indicated that he thought he had responded correctly since he had not been convicted. Although the question is unambiguous in its language requiring disclosure of any charge **or** conviction, a good faith mistake as to what was required could negate the intent required for a deliberate falsification. When he answered the SOR, Applicant also indicated that he apparently had not paid close enough attention to the question. I accept his explanation and accordingly find that he did not knowingly falsify question 21.

However, given the extent of his financial delinquency as reflected in his November 2004 credit report, Applicant’s claim that as of his October 2004 SF 86 he “was almost sure that [he] was not over 180 days delinquent on any accounts that [he] knew of,” is not plausible. While he may not have known the specific delinquent balances, he has not disputed that he was seriously in debt (\$2,455 for a computer placed for collection in March 2002, \$50 for a telephone debt in collection from 1998 until he paid it in March 2006; \$1,608 on a car loan that he apparently settled in February 2006; \$907 on a collection debt placed in April 2002 and not paid off until 2006; \$1,475 on a credit card that was charged off in June 2000; and \$560 on a revolving charge placed in November 2002. Moreover, in his response to the FORM, Applicant admitted that he had “neglected the importance of credit and accounts before,” that “accounts were not paid because of fear of losing employment.” The objective evidence confirms not only that he had been 180 days past due on several accounts in the seven years preceding his clearance application, but that he was then over 90 days delinquent. His debt problems went beyond merely slipping on a few accounts hoping to make up in the next billing cycle. Applicant committed a felony violation of § 18 U.S.C. § 1001 by deliberately omitting relevant and material information concerning his indebtedness from his SF 86.⁵ DC 31(c) of the Criminal Conduct guideline applies. His misrepresentations also raise Personal Conduct concerns (*see* AG ¶ 15, *Conduct involving questionable judgment, lack of candor, dishonesty, or*

⁵18 U.S.C. § 1001 provides in part:

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully: (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title or imprisoned not more than 5 years, or both.

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. Under Guideline E, DC ¶ 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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities, is pertinent.

I am unable to conclude that he is successfully rehabilitated from the Criminal Conduct or Personal Conduct concerns where he remains unwilling to acknowledge the deliberate falsification of his SF 86. His failure to provide a credible explanation for his negative responses to questions 38 and 39 casts continuing doubt on his judgment and trustworthiness, and reflects a lack of remorse. He has not satisfied Guideline J MC ¶ 32(d), *there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.* Nor has he shown the prompt, good faith effort at rectification required for favorable consideration of Guideline E MC ¶ 17(a), *the individual made prompt, good faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.*

Whole Person Analysis

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. AG ¶ 2(a) Some of his accounts had been in collection for six years before he began to address them (¶ 2(a)(1) the nature, extent, and seriousness of the conduct). Although he has recently settled and/or paid several of the delinquencies (¶ 2(a)(6) the presence or absence of rehabilitation and other pertinent behavioral changes), his uncorroborated claims of having made payments on others (¶ 1.b, ¶ 1.d) are difficult to accept when he has not been fully candid about his financial situation. Little confidence can be placed in his judgment, reliability, and trustworthiness in light of his well-documented financial irresponsibility and his false statements.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR, as amended:

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant

Subparagraph 1.i:	For Applicant
Subparagraph 1.j:	For Applicant
Paragraph 2. Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	Against Applicant
Subparagraph 2.d:	(Withdrawn)
Subparagraph 2.e:	Against Applicant
Paragraph 3. Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	For Applicant
Subparagraph 3.b:	Against Applicant
Subparagraph 3.c:	Against Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Elizabeth M. Matchinski
Administrative Judge