



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



In the matter of:)	
)	
[Redacted])	ISCR Case No. 12-12401
)	
Applicant for Security Clearance)	

Appearances

For Government: Daniel F. Crowley, Esq., Department Counsel
For Applicant: *Pro se*

04/25/2014

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations) and E (Personal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on January 9, 2013. On September 27, 2013, the Department of Defense (DOD) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines F and E. DOD acted under Executive Order 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) implemented by DOD on September 1, 2006.

Applicant received the SOR on October 3, 2013; answered it on October 21, 2013; and requested a hearing before an administrative judge. Department Counsel sent Applicant a copy of the current Adjudicative Guidelines and copies of the Government's documentary evidence on November 20, 2013. (Hearing Exhibit (HX) I.)

Department Counsel was ready to proceed on December 17, 2013, and the case was assigned to me on December 19, 2013. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on January 13, 2014, scheduling it for February 19, 2014. DOHA issued an amended notice of hearing on January 27, 2014, rescheduling the hearing for February 21, 2014. The hearing was postponed again at Applicant's request when he was summoned for jury duty on the scheduled hearing date.

On March 6, 2014, DOHA issued a notice of video teleconference hearing, scheduling it for March 18, 2014. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 8 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through L, which were admitted without objection. I kept the record open until April 4, 2014, to enable Applicant to submit additional documentary evidence. He timely submitted AX M and N. Department Counsel's comments regarding AX M and N are attached to the record as HX II and HX III. DOHA received the transcript (Tr.) on March 26, 2014.

Findings of Fact

In his answer to the SOR, Applicant admitted SOR ¶¶ 1.a, 1.b, 1.e, 1.h, 1.j-1.l, and 2.a-2.i. He denied SOR ¶¶ 1.c, 1.d, 1.f, 1.g, and 1.i. At the hearing, he denied the intentional falsification of two SCAs alleged in SOR ¶¶ 2.a-2.d. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 33-year-old employee of a defense contractor. He has worked for his current employer since June 2007. He served in the U.S. Navy from June 2000 to November 2006, when he was discharged under other than honorable conditions for drug abuse. (GX 6 at 4.)

Applicant attended a community college while on active duty from September 2004 to April 2006, but he did not receive a degree. He received a certificate of recognition for outstanding performance from his current employer in October 2010. (AX J.) He completed a prescribed program of workshops in "lean practice" in April 2011. (AX K.) In June 2012, he completed the Dale Carnegie Course. (AX F.) He received a bachelor's degree in business administration in December 2013. (AX I.) He testified that he is currently enrolled in a master's degree program in business administration. (Tr. 55.) In November 2013, he received a certificate recognizing him for volunteer work at a local elementary school. (AX L.)

Applicant applied for a clearance in October 2008, but his application was denied based on financial considerations. During a personal subject interview (PSI) in February 2013, he told the investigator that his application was denied because he failed to provide a credit report as requested by the adjudicators. (GX 1 at 32; GX 5 at 8.)

Applicant married in June 2003 and separated in June 2006. He testified that he has not filed for divorce because he cannot afford it. He and his wife had one child, now ten years old, who lives with Applicant. (Tr. 42.) Applicant has another child from an

extramarital affair, now about 12 years old, for whom he pays child support of \$249 per month. He and his current cohabitant have a six-year-old son. (Tr. 43-44; GX 5 at 6.)

In September 1999, Applicant was arrested and charged with possession of a firearm. During his February 2013 PSI, he told the investigator that a friend slipped a handgun into his backpack when the police stopped a cab in which they were riding. Applicant pleaded not guilty, and the charge was dismissed in September 2000. (GX 5 at 7.)

In December 2003, Applicant was arrested and charged with assault and battery on his spouse. He pleaded no contest and the charge was dismissed. He was referred to the Navy Family Advocacy Program for domestic violence counseling, which he completed in May 2005. (GX 4 at 3; GX 5 at 7.)

In December 2005, Applicant was cited for driving on an expired driver's license and without an inspection sticker on his vehicle. He was convicted and fined.

In September 2006, after smoking marijuana and testing positive for marijuana use, Applicant received nonjudicial punishment under the Uniform Code of Military Justice. He was a petty officer second class at the time. (Tr. 36.) His punishments were reduction in rank, forfeiture of pay, and restriction for 15 days. (GX 5 at 13.) In November 2006, he was discharged from the U.S. Navy under other than honorable conditions and barred from reenlistment. (GX 5 at 5.) During his February 2013 PSI, he told the investigator that the marijuana cigarette was provided by a coworker, that he tried it out of curiosity, and that he has never used marijuana again. (GX 5 at 4-5.) At the hearing, he testified that he never used marijuana before enlisting in the Navy and that his use of marijuana was a one-time incident. (Tr. 38.)

In February 2007, Applicant was cited for driving a vehicle with an expired registration. He was convicted and fined.

In July 2007, Applicant was arrested and charged with driving on a revoked license and failure to appear on a misdemeanor charge. He was convicted and fined. (GX 4 at 3.)

When Applicant submitted an SCA in November 2012, he answered "No" to a question whether he had a judgment entered against him during the past seven years. He did not disclose four judgments: a judgment for \$770 entered in December 2006 that was unsatisfied (alleged in SOR 1.I); a judgment for \$5,245 entered in December 2006 and satisfied in November 2009; a judgment for \$3,791 entered in December 2007 and satisfied through wage garnishment in December 2009; and a judgment for \$9,250 entered in February 2009 and satisfied in August 2012. On the same SCA, he responded "Yes" to questions asking if, during the past seven years, he had any property repossessed, defaulted on a loan, had bills or debts turned over to a collection agency, had an account charged off, or been more than 120 days delinquent on any debt. However, he listed only one debt that resulted from repossession of a vehicle. (GX

1 at 33-35.) When Applicant submitted his current SCA in January 2013, he gave the same answers to the same financial questions. (GX 2 at 33-35.)

Applicant's January 2013 credit bureau report (CBR) reflects the delinquent debts alleged in the SOR. (GX 3.) The evidence summarizing these debts is listed below:

SOR ¶ 1.a (cell phone, \$1,374). This debt was for a cell phone used by Applicant's estranged wife. (Tr. 45.) It was referred for collection in November 2012. (GX 3 at 7.) In his PSI, Applicant told the investigator that he had forgotten about this debt, and he promised to resolve it. (GX 5 at 10.) At the hearing, he testified that the debt was resolved. (Tr. 46-47.) It is not reflected on his March 2014 CBR. (AX B.) I conclude that it is resolved.

SOR ¶ 1.b (credit card, \$1,274). This debt is for a joint credit card account used by Applicant's estranged wife, which she "maxed out" when she left him. (GX 5 at 9.) It was referred for collection in December 2012. In his PSI, Applicant admitted this debt and promised to resolve it. (GX 5 at 10.) At the hearing, he admitted that the debt was not resolved. (Tr. 48.)

SOR ¶¶ 1.c, 1.f, 1.g, 1.i (student loans for \$114, \$96, \$74, and \$9,117). Applicant denied these debts and testified that he believed all his student loans had been resolved. (Tr. 56-57.) The delinquent loan in SOR ¶ 1.c was referred for collection in December 2007. It is one of three student loans reflected on Applicant's January 2013 CBR with the same creditor and the same guarantor. The other two student loans from this creditor and with this guarantor are reflected as paid collections and are not alleged in the SOR. (GX 3 at 6-7.)

The evidence submitted by Applicant after the hearing reflects that he defaulted on four student loans from the creditor alleged in SOR ¶ 1.c. The guarantor for those loans paid claims totaling about \$9,020 in December 2007, which is approximately equal to the \$9,117 debt alleged in SOR ¶ 1.i. The account number for the loan alleged in SOR ¶ 1.c is the same as the account number for the loan alleged in SOR ¶ 1.i, indicating that SOR ¶ 1.c is included in SOR ¶ 1.i. The creditor alleged in SOR ¶ 1.i is servicing the loans paid by the guarantor, on which Applicant remains liable. The delinquent student loan in SOR ¶ 1.i is reflected on the January 2013 CBR as more than 120 days delinquent, closed, and assigned to the government in November 2006. (GX 3 at 4.) The March 2014 CBR reflects that the account held by the creditors alleged in SOR ¶¶ 1.c and 1.i is past due and referred for collection. (AX B at 10; AX M.) I conclude that the delinquent student loan account alleged in SOR ¶ 1.i, which includes the delinquent student loan account alleged in SOR ¶ 1.c, is not resolved.

The delinquent student loan alleged in SOR ¶ 1.f was referred for collection in December 2006. It is not reflected on Applicant's March 2014 CBR, indicating that it was either resolved or included in the debt alleged in SOR ¶ 1.i.

The delinquent student loan alleged in SOR ¶ 1.g is reflected on the January 2013 CBR as referred for collection in December 2012 and assigned to the government. (GX 3 at 4.) It is not reflected on the March 2014 CBR, indicating that it probably was resolved. (AX B.)

SOR ¶ 1.d (deficiency on auto repossession, \$2,749). Applicant denied this debt. In his PSI and at the hearing, he stated that the debt was resolved. (GX 5 at 9; Tr. 51.) His January 2013 CBR reflects that the judgment obtained by this creditor in February 2009 was satisfied in August 2012. (GX 3 at 3.)

SOR ¶ 1.e (credit card, \$676). Applicant's January 2013 CBR reflects that this account was charged off and sold to another lender, but it does not identify the new lender. In his PSI, Applicant told the investigator that he had been unable to find the new lender. (GX 5 at 9.) At the hearing, Applicant admitted this debt, and he testified that he was making payments on it, but he produced no documentation to support his testimony. (Tr. 52-53.) It is not resolved.

SOR ¶ 1.h (loan for \$6,858). This debt was referred for collection in November 2006. (GX 3 at 9.) In his PSI, Applicant told the investigator that this debt was a joint debt to purchase a computer for his wife. (GX 5 at 10.) Applicant admitted this debt and testified he is making payments on it, but he produced no documentation. (Tr. 55-56.) His March 2014 CBR reflects that he is making payments on another loan from the same lender, for a different amount. The debt alleged in the SOR is not resolved.

SOR ¶ 1.j (deficiency on auto repossession, \$5,617). This debt was charged off in July 2007. (GX 3 at 4.) In his PSI, Applicant told the investigator that this debt was incurred when his wife purchased an automobile and he cosigned the loan. (GX 5 at 9.) He testified that he and his wife are making payments on this debt. (Tr. 58.) It is not reflected on his March 2014 CBR, indicating that it is resolved. (AX B.)

SOR ¶ 1.k (credit card for \$828). Applicant's January 2013 CBR reflects that this account has a zero balance and was closed at Applicant's request in January 2007. (GX 3 at 8.) It is resolved.

SOR ¶ 1.l (unsatisfied judgment for \$770). This judgment was entered in December 2006. It was for unpaid rent for the apartment that Applicant and his wife last occupied. In his PSI, he told the investigator that he had paid his share of the debt. (GX 5 at 8.) He submitted a personal financial statement (PFS) in July 2013, indicating that he was making monthly \$192 payments on this debt. (GX 7 at 4.) At the hearing, he testified that the judgment was satisfied, but he provided no documentary support for his testimony.¹ (Tr. 60.) I conclude that it is not resolved.

¹ This debt was not listed on Applicant's March 2014 CBR (AX B). Its deletion from Applicant's credit record was required pursuant to the seven-year limit imposed by the Fair Credit Reporting Act, 15 U.S.C. § 1681c.

Applicant's July 2013 PFS reflected \$3,396 per month in net income from his current job and \$1,006 in educational benefits under the Post-9/11 GI Bill. He listed monthly expenses of \$989, and debt payments of \$1,342, leaving a net remainder of about \$2,071. (GX 7 at 4.) As of December 2013, he had about \$26,700 in his retirement account. (AX G; AX H.) In addition to his university courses for his master's program, he has taken classes in budgeting and financial management. (Tr. 64-65.)

When asked why he did not disclose all his delinquent debts on his SCA, he testified: "At that time I didn't know how much would actually pop up because I satisfied a lot of them and I didn't want to put stuff that I know I'd satisfied and I didn't know exactly which one I'd maybe satisfied. I wasn't sure. That's why I didn't list all of my debts that was up there." He denied intentionally omitting unsatisfied debts. (Tr. 65-67.)

Applicant's employer has a drug-free workplace policy. (AX A at 6.) Applicant has submitted a statement of intent to avoid any association with the use, possession, production of illegal drugs. (AX N.)

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 have access to such information." *Id.* at 527. The President has 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), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec.

Or. 10865 § 7. Thus, a decision to deny a security clearance 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.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 92-1106 at 3, 1993 WL 545051 at *3 (App. Bd. Oct. 7, 1993).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Guideline F, Financial Considerations

The SOR alleges 12 delinquent debts, including one unsatisfied judgment (SOR ¶¶ 1.a-1.l). The concern under this guideline is set out in AG ¶ 18:

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.

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

When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 (App. Bd. Sep. 21, 2005) at 3 (same debt alleged twice). The evidence reflects that the debt alleged in SOR ¶ 1.c is included in SOR ¶ 1.i. Accordingly, I will resolve SOR ¶ 1.c in Applicant's favor.

Applicant's admissions and the documentary evidence submitted by Department Counsel establish two disqualifying conditions under this guideline: AG ¶ 19(a) "inability or unwillingness to satisfy debts") and AG ¶ 19(c) ("a history of not meeting financial obligations"). The following mitigating conditions are potentially relevant:

AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 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), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and

AG ¶ 20(d): the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(a) is not established. Applicant's debts are numerous, many are unresolved, and they did not occur under circumstances making them unlikely to recur.

AG ¶ 20(b) is not fully established. Applicant's unemployment after his discharge from the Navy was due to his own misconduct, not conditions beyond his control. His marital breakup was a circumstance beyond his control, but he has not acted responsibly. He satisfied three judgments against him for marital debts incurred before his separation, but one of those judgments was satisfied by garnishment, which does not constitute responsible conduct. See ISCR Case No. 09-5700 (App. Bd. Feb. 24, 2011). Even though he has a substantial monthly remainder available each month, he did not provide proof that he had resolved the credit card debt alleged in SOR ¶ 1.b, the credit card debt in SOR ¶ 1.e, the debt for the purchase of his estranged wife's computer alleged in SOR ¶ 1.h, the delinquent student loans alleged in SOR ¶ 1.i, and the unsatisfied judgment alleged in SOR ¶ 1.l.

AG ¶ 20(c) is not established. Applicant has obtained a degree in business administration and taken college courses in budgeting and financial management. While the evidence shows that Applicant has resolved several delinquent debts, the evidence

falls short of a “clear indication” that his financial problems are under control or being resolved.

AG ¶ 20(d) is not fully established. Good faith within the meaning of this mitigating condition means acting in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation. ISCR Case No. 99-0201, 1999 WL 1442346 at *4 (App. Bd. Oct. 12, 1999).). A security clearance adjudication is aimed at evaluating an individual’s judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010.) A person is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. The adjudicative guidelines do not require that an individual make payments on all delinquent debts simultaneously, nor do they require that the debts alleged in the SOR be paid first. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Many of Applicant’s debts became delinquent in 2006 and 2007 and are unresolved. He has been steadily employed since July 2007, and he has a substantial remainder available each month for discretionary spending. He has resolved the debts alleged in SOR ¶¶ 1.a, 1.d, 1.f, 1.g, 1.j, and 1.k, and AG ¶ 20(d) is established for these debts. However, his testimony regarding the resolution of the remaining delinquent debts alleged in the SOR is unsupported by documentary evidence. I conclude that AG ¶ 20(d) is established for SOR ¶¶ 1.a, 1.d, 1.f, 1.g, 1.j, and 1.k, but it is not established for the remaining delinquent debts alleged in the SOR.

Applicant’s CBRs and the evidence he submitted regarding his student loans reflect several delinquent debts not alleged in the SOR. Conduct not alleged in the SOR may be considered to assess an applicant’s credibility; to decide whether a particular adjudicative guideline is applicable; to evaluate evidence of extenuation, mitigation, or changed circumstances; to consider whether an applicant has demonstrated successful rehabilitation; or as part of a whole-person analysis. ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006). I have considered the evidence of delinquent debts not alleged in the SOR for these limited purposes.

Guideline E, Personal Conduct

The SOR alleges that Applicant falsified his responses to financial questions on his two SCAs (SOR ¶¶ 2.a-2.d), that he was arrested in July 2007 for driving without a valid driver’s license and failing to appear on a misdemeanor (SOR ¶ 2.e), that he was cited in February 2007 for an expired vehicle registration (SOR ¶ 2.f), and that he was cited in December 2005 for driving with an expired license and not having an inspection sticker (SOR ¶ 2.j). It alleges that Applicant smoked marijuana in September 2006, received nonjudicial punishment for using marijuana, and was discharged from the Navy for his drug abuse (SOR ¶¶ 2.g, 2.h, and 2.i). It alleges that he was arrested for a domestic assault and battery in December 2003 (SOR ¶ 2.k) and illegal possession of a firearm in September 1999 (SOR ¶ 2.l).

The concern under this guideline is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified 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.

The disqualifying condition relevant to Applicant's omissions from his two SCAs is "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." AG ¶ 16(a).

When a falsification allegation is controverted, as in this case, the Government has the burden of proving it. An omission, standing alone, does not prove falsification. An administrative judge must consider the record evidence as a whole to determine an applicant's state of mind at the time of the omission. See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004). An applicant's level of education and business experience are relevant to determining whether a failure to disclose relevant information on an SCA was deliberate. ISCR Case No. 08-05637 (App. Bd. Sep. 9, 2010).

Applicant is a well-educated, mature adult. He offered no credible explanation for not disclosing the four judgments that were entered against him. He has not credibly explained why, if he believed that the question asked only about unsatisfied judgments, he did not disclose the unsatisfied judgment alleged in SOR ¶ 1.I, on which he claimed in his PFS that he was making payments. He knew that delinquent debts raised security concerns, because his 2008 application was denied on that basis. He claimed his omissions in his SCA were due to his inability to remember what debts he had satisfied, but he did not credibly explain why he did not verify the accuracy of his answers on the first SCA before submitting the second SCA. I found his explanations for omitting derogatory financial information on two consecutive SCAs implausible and unpersuasive. I conclude that AG ¶ 16(a) is established.

Applicant's admitted drug involvement, traffic infractions, domestic incident, and firearms offense established the following disqualifying conditions under this guideline:

AG ¶ 16(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 person may not properly safeguard protected information;

AG ¶ 16(d): credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of . . . a pattern of dishonesty or rule violations; and

AG ¶ 16(e): personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as . . . engaging in activities which, if known, may affect the person's personal, professional, or community standing.

The following mitigating conditions are potentially relevant:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

AG ¶ 17(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;

AG ¶ 17(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; and

AG ¶ 17(e): the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶ 17(a) is not established. Applicant had the opportunity to correct his responses to the financial questions on his November 2012 SCA when he submitted another SCA in January 2013. Instead, he simply repeated the same incomplete information in his second SCA.

AG ¶ 17(c) is not established for the falsification of his two SCAs. Falsification of an SCA is not minor, because it undermines the integrity of the security clearance process. Applicant's falsifications were recent, repeated, and not the result of unique

circumstances making them unlikely to recur. However, AG ¶ 17(c) is established for the conduct alleged in SOR ¶¶ 2.e-2.l. The incidents alleged in SOR ¶¶ 2.f and 2.j were minor infractions, and the incidents in SOR ¶¶ 2.e-2.l occurred more than seven years ago and have not been repeated.

AG ¶ 17(d) is partially established by Applicant's separation from his wife, who incurred several of the debts for which he was jointly liable. It is not established for Applicant's delinquent student loans.

AG ¶ 17(e) is not established. Applicant's lack of candor on his two SCAs and his continuing indebtedness make him vulnerable to manipulation, exploitation, or duress.

Whole-Person Concept

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. In applying the whole-person concept, an 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. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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.

I have incorporated my comments under Guidelines F and E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant appears to have overcome his ill-advised, isolated involvement with marijuana and his disregard for traffic regulations. He is devoted to his children and involved in their schools. He has a stable, committed relationship with his cohabitant. He has worked for his current employer since July 2007. However, his lack of candor on his two SCA's and his inability or unwillingness to resolve his delinquent debts leave me with doubts about his reliability, trustworthiness, and good judgment.

After weighing the disqualifying and mitigating conditions under Guidelines F and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns based on financial considerations and personal conduct. Accordingly, I conclude he has not carried his burden of showing that

it is clearly consistent with the national interest to grant him eligibility for access to classified information.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): AGAINST APPLICANT

Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraphs 1.c-1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraphs 1.f-1.g:	For Applicant
Subparagraphs 1.h-1.i:	Against Applicant
Subparagraphs 1.j.-1.k:	For Applicant
Subparagraph 1.l:	Against Applicant

Paragraph 2, Guideline E (Personal Conduct): AGAINST APPLICANT

Subparagraphs 2.a-2.d:	Against Applicant
Subparagraphs 2.e-2.l:	For Applicant

Conclusion

I conclude that 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.

LeRoy F. Foreman
Administrative Judge