



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

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ISCR Case No. 13-00311

Applicant for Security Clearance

Appearances

For Government: Braden M. Murphy, Esquire, Department Counsel
For Applicant: *Pro se*

10/31/2013

Decision

WHITE, David M., Administrative Judge:

Applicant bought five risky real estate investment properties in a blighted area of a distant city in 2005, and stopped making resulting mortgage payments in August 2007. In May 2007, he incurred more mortgage debt for a preconstruction home in a different city. He decided not to move there, and stopped making those payments in November 2007. Related utility bills in both locations remain unpaid, as do three large medical debts incurred in 2010. The evidence is insufficient to mitigate resulting security concerns. Based upon a review of the pleadings, testimony, and exhibits, eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SF 86) on September 6, 2012. On March 28, 2013, the Department of Defense issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guideline F (Financial Considerations). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, effective within the Department of Defense after September 1, 2006.

Applicant answered the SOR in writing (AR) on April 12, 2013, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on May 15, 2013. The case was assigned to me on May 23, 2013. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Video Teleconference Hearing on June 24, 2013, and I convened the hearing, as scheduled, on July 11, 2013. Applicant, and the court reporter attended the hearing in person. Department Counsel participated from DOHA Headquarters by video teleconference. The Government offered Exhibits (GE) 1 through 3, which were admitted without objection, and Hearing Exhibit (HE) I, a Government exhibit list. Applicant offered Exhibits (AE) A and B, which were admitted without objection, and testified on his own behalf. I granted Applicant's request to leave the record open until July 25, 2013, for submission of additional evidence. DOHA received the transcript of the hearing (Tr.) on July 23, 2013. Applicant timely submitted AE C. Department Counsel forwarded that exhibit to me on August 1, 2013, with no objection to its admission. AE C was admitted, and the record closed.

Findings of Fact

Applicant is a 64-year-old potential employee of a defense contractor, where he was offered a position contingent on his obtaining a security clearance in August 2012.¹ He is married, with a 25-year-old son and three adult stepdaughters who all live independently. For the past year, he and his wife have lived with her parents while he seeks employment. He is a college graduate, whose primary work experience has involved managing government contracts and foreign military sales (FMS). He has no military service, other than a few weeks of Navy Aviation Officer Candidate School in 1972. He has held a security clearance on a couple of occasions, most recently from about 1993 to 2002. In December 2009, he was denied a security clearance by the Defense Industrial Security Clearance Office (DISCO) due to financial considerations. (GE 1; GE 3; AE C; Tr. 6-8, 28-29, 63-68.)

In his response to the SOR, Applicant denied the allegations concerning the real-estate-related debts set forth in ¶¶ 1.a through 1.f, because he said he was disputing them. He admitted the allegations concerning medical debts set forth in ¶¶ 1.g through 1.i, with explanations. Applicant's admissions, including his statements in response to DOHA interrogatories (GE 3), are incorporated in the following findings.

Applicant was unemployed from June 2002 to March 2003, after having worked overseas for about nine years for a U.S. contractor, providing services to the air force of "Country A" in the Middle East. His first wife was employed, and they lived off her income and their savings during his unemployment. (GE 1; Tr. 66-68.) He worked as a contracts manager for a U.S. technology company from March through October 2003, after which he was again unemployed for two years while relying on family financial support and personal savings. (GE 1; Tr. 68.) From October 2005 until August 2006, he worked as a senior contract administrator for a U.S.-based defense contractor. (GE 1; Tr. 68.) He quit that job to start his own company, which he incorporated in a state

¹Applicant remained sponsored for a clearance by the contractor at the time of his hearing. (Tr. 11-12.)

distant from his residence, to acquire and sell aircraft parts and equipment to a company supporting the Country A air force. This company went out of business in May 2008. (GE 1; Tr. 69, 83, 91.)

From July 2008 until November 2009, when his contract ended, Applicant was employed overseas as a program business manager for an FMS defense contractor (Company Z) that provided support services to the U.S. Government and other contractor personnel working with the air force of "Country B" in the Middle East. (GE 1; Tr. 69.) During his subsequent unemployment through September 2010, he lived off personal savings while staying at the home of his second wife's parents. (GE 1; Tr. 70.)

In October 2010 he started work as a contract manager in Country A for a locally-owned technical services company through which the U.S. Government and U.S. companies provided material and technical support to the Country A air force. He left that job in April 2012 to accept a deputy program and business manager position with a U.S. company (Company Y) in Country B supporting that country's air force. On his SF 86, he said that he left this job in July 2012 for personal reasons due to family illness, and moved back to live with his parents-in law at their U.S. address that month. (GE 1 at 7, 14-15.) During his hearing, he testified:

The [Company Y] in [Country B, I] was there for their transition period because we won the contract from [Company Z]. I was a consultant for [Company Y]. We won that contract, and I was there from March 12 to July 12. And that's when they contacted me and said they had a position for me in ["Country C"] as a CAAT team leader but that it - - and they made the offer, but that required a secret clearance.

(Tr. 70-71.) The letter conditionally offering Applicant the new position with Company Y in Country C was dated August 21, 2012, and offered him an at-will position as a Contract Acquisition Advisory Team (CAAT) Procurement Mentor. (AE C.)

In summary, during the 134 months from June 2002 through July 2013, Applicant was employed for a total of 54 months by five different companies. The longest of these jobs lasted 18 months, while working for a foreign-owned company after the DISCO denied his previous application for a security clearance sponsored by a prospective U.S. employer. He reportedly left each of these jobs voluntarily. He also spent 21 months unsuccessfully trying to start his own military equipment export company, and was unemployed for the remaining 59 months.

Applicant's SOR-listed delinquent debts involve multiple bad real estate investments and medical expenses arising from a period of emergency hospitalization while unemployed and without medical insurance. They will be discussed in chronological order, rather than the order in which they appear on the SOR.

As noted, Applicant was unemployed from March 2003 to October 2005. In early 2005, after seeing an advertisement on television and receiving encouragement during

a telephone conversation with a longtime acquaintance whose family owned some apartment buildings in another state, Applicant decided to get involved in income-producing real estate investment for the first time. He had previously bought and sold some vacant land, but had no experience owning or managing rental properties. He took some on-line courses, then went to a one-week seminar sponsored by a real estate company in Las Vegas that included training materials and guest speakers. At the conclusion of this seminar, Applicant joined what he described as, “this team of, quote/unquote, experts in real estate investing.”² These team members were persuaded to each purchase five distressed properties in a blighted area of a distant major city on which prefabricated homes would be placed on full foundations and rented to low income families under leases with options to buy. Applicant testified that, “The investment opportunities were very attractive and lucrative.”³ (Tr. 40-42, 71-77, 80-84.)

Applicant purchased five such properties in May 2005, with mortgage loans ranging from approximately \$105,000 to \$126,000. The loans required minimal, if any, down payments. He also took out a \$16,200 second mortgage loan to finance some improvements, like gutters and landscaping, that were not provided by the seller of these properties. Unfortunately, none of the anticipated urban renewal took place in the area surrounding Applicant’s investment properties, and no renters/buyers materialized. In August 2007 Applicant stopped making payments toward these mortgage loans. The properties fell into disrepair, and were looted, damaged, or destroyed. These mortgage loans included the delinquent debts alleged in SOR ¶¶ 1.b, 1.c, and 1.f, totaling \$303,427.⁴ Applicant’s record credit report includes another charged-off first mortgage loan on a third property from this group, with a \$139,351 balance due, that was apparently overlooked during preparation of the SOR.⁵ This will not be considered as evidence to establish any disqualifying conditions, but is relevant to evaluating whether Applicant established mitigation and in the whole-person analysis. Applicant was unable to explain why the remaining two first mortgage loans did not appear on his credit report, but said that he defaulted on all five such loans and is not sure what happened to the properties. (AR; GE 1; GE 2; GE 3; Tr. 40-48, 71-81, 89-90, 94, 103-104, 120-128.)

Applicant and the other members of this real estate investment team sued the developers and several associated companies involved in selling them these investment properties. The bank holding Applicant’s five first mortgage loans, and the lender holding his SOR ¶ 1.f second mortgage loan, were not included as defendants because the attorney representing the investors did not have enough evidence or the resources to litigate against them, and anticipated that they would actively defend against any claims. The named defendants did not answer or defend the lawsuit, so on June 20,

²Tr. 75.

³Tr. 40.

⁴SOR ¶ 1.f alleges a past-due amount of \$9,878, although the total balance due on that loan is \$16,152.

⁵See GE 2 at 10.

2007, the local Circuit Court entered a default judgment in favor of the plaintiffs. This judgment awarded Applicant \$904,525 in damages, earning 6% interest until paid. Applicant said that he has been unable to collect any money from this judgment because all of the defendants went bankrupt, although he has contacted some debt-collection attorneys who are looking into whether any funds may be collectible from follow-on companies. (AR; GE 3; Tr. 42-43, 46-48, 83-88.)

The FBI conducted an investigation into the financial practices of the bank that issued the first mortgages to Applicant and his investment team members. He and his default-judgment attorney hoped that this would lead to criminal charges upon which they could base some claim for civil relief from their mortgage loan obligations. At some point between April 2011 and March 2012, the investigation was completed and presented to an Assistant U.S. Attorney, but it was declined for prosecution. Applicant's current position is that he takes exception to owing the mortgage loan debts, and plans to seek an attorney in the state involved who would be willing to represent him in a suit against those creditors. (AR; GE 3; Tr. 43-47, 85-88.)

The \$595 delinquent utility debt alleged in SOR ¶ 1.e also relates to these investment properties. The account was opened in February 2007, and became delinquent in August 2007, the same month he reportedly stopped making mortgage payments. Applicant does not intend to pay this bill either, claiming that it was incurred by squatters who broke into and resided in one of his properties for a period. He said that he had communicated with the creditor to dispute the debt, but the only copy of correspondence he provided was a letter dated July 11, 2008, in which he stated that he was unemployed, in the middle of a divorce, and could not afford to pay the debt. He further asked that the creditor stop calling him and contact his default-judgment attorney instead. (AR at 5 and Attachment e; GE 3; Tr. 47, 103, 112-113.)

With a divorce from his first wife pending, and possibly having to move out of their family home, Applicant was convinced by one of the friends in his investment group that buying a new construction property in another state to move into "may be a good idea."⁶ He had been managing his military export company from his home for about nine months, and thought he could do so from this new location as easily. In May 2007, he obtained a \$360,000 preconstruction first mortgage loan to buy a single family home there. He put little or no money down. His divorce was not finalized until December 2008, but at the time when they separated his wife decided to move to a different state and he decided to remain in their family home. He said that at that point he decided to put the new construction home up for sale, but the market had begun its downturn. He provided some documentation in the form of emails to and from a real estate agent who unsuccessfully tried to arrange a short sale for him with several potential buyers in late 2008. However, his credit report reflects that he had stopped making payments toward this mortgage loan in November 2007. By January 2009, the lender reported a balance due of \$407,022 and a past-due amount of \$52,818. (AR; GE 1; GE 2 at 13; GE 3; Tr. 49-51, 90-96.)

⁶Tr. 92-93.

The current status of Applicant's indebtedness resulting from this transaction is not entirely clear. His credit report indicates that in December 2008 a different creditor, who apparently purchased the note on the secondary mortgage market, obtained a judgment against Applicant in the local District Court for \$359,432 as alleged in SOR ¶ 1.a. However, in January 2009, the original lender reported his ongoing indebtedness to them as mentioned in the foregoing paragraph. Although the credit report was obtained in September 2012, those are the most recent entries concerning this debt. The short-sale real estate agent's last email, on January 29, 2009, informed Applicant that the property "sold yesterday in the foreclosure sale on the courthouse steps for \$246,000."⁷ Applicant testified that he never received an IRS Form 1099 indicating that the remaining balance due on the loan had been cancelled or abandoned.⁸ Between April and July 2013, he received a \$600 settlement check as a result of an agreement reached between the foreclosing creditor's parent company and Federal banking regulators related to an enforcement action regarding deficiencies in mortgage servicing and foreclosure processes. During April 2013, Applicant wrote a dispute letter to the credit bureau that reported the 2008 District Court judgment, and that bureau deleted the entry. (AR; GE 3; AE B; AE C; Tr. 49-55, 96-101.)

The \$469 debt alleged in SOR ¶ 1.d was placed for collection after Applicant failed to pay for utilities provided to his new construction home while the real estate agent was showing it to attempt a short sale. When asked his position on the debt, he testified, "I owe it, but I'm taking exception to it . . . [b]ecause of what [lender] did with regard to not allowing me to sell my property and accepting the buyers that we presented them . . . [o]therwise I wouldn't have incurred it."⁹ This makes little sense, since he voluntarily incurred the debt for utility services to show the house, before the short sale offers were not accepted by the lender. The credit report entry is also informative in that it shows the account was opened in October 2008, so the house was not being marketed before that despite the fact that Applicant had stopped making the mortgage payments in November 2007. (AR; GE2 at 7; GE 3; Tr. 101-103.)

SOR ¶¶ 1.g through 1.i allege medical debts totaling \$62,927. Applicant admits these debts, which arose from his emergency treatment and subsequent hospitalization for a serious incident during August and September 2010. He was uninsured and unemployed at the time, although he had accepted an offer of employment with the foreign-owned company supporting the Country A air force starting in October 2010. He testified that he would pay these debts if he secured the job for which he is seeking this security clearance, but he did not explain why he made no payments toward the debts while he was employed overseas from October 2010 to July 2012. He also plans to submit a request for a charity allowance from the primary creditor on the largest of the three debts, but had not done so before the record closed. (AR; GE2; GE 3; AE C; Tr. 28, 56-57, 61-62, 107-108.)

⁷GE 3.

⁸Tr. 101.

⁹Tr. 101-102.

On March 11, 2013, after receiving the record financial interrogatories from DOHA but before responding to them, Applicant paid \$1,003.54 to resolve two other formerly delinquent medical debts that had been placed for collection. (GE 3; Tr. 57-61, 113-114.)

Applicant provided no evidence of financial counseling, although his undergraduate degree was in economics and he has some additional education in the area of contract administration. His March 2013 personal financial statement reflected no net monthly income, monthly expenses of \$1,350, and monthly debt payments of \$2,139. He is living with his parents-in-law, and pays them no rent. He has rented his home for \$1,495 per month, which is roughly the amount of his monthly mortgage payment on that property. This resulted in a \$1,994 monthly deficit. He also said that he had \$30,000 in bank savings, and about \$59,000 in equity in his home. During his hearing in July 2013, he testified, "I'm slowly trying to pay those [medical] bills with what little savings I have . . . [I] have been unemployed for one year. I'm living with relatives, who have been kind enough to help me in this time of uncertainty, and depleting what little savings I have to pay my bills."¹⁰ He also said that he had no other delinquent debts, that he was paying his present expenses and credit card debt by "depleting my savings and small retirement that I have," and that his wife is not employed either.¹¹ He said that he would attempt to obtain legal representation to contest his real-estate-related delinquencies and collect on his default judgment, but had not done so at the close of the record. (GE 3; Tr. 6, 39, 42-43, 46, 48, 50, 52, 73, 88, 99-100, 109-112.)

Applicant provided character reference letters from four individuals. A retired U.S. Air Force colonel for whom he worked at the foreign-owned company in support of the Country A air force found his character to be beyond reproach, and his judgment and demeanor to be superb. This colonel further found his personal habits to be consistent with someone who held a position of trust, and his loyalty to be complete. Another retired colonel has known Applicant, personally and professionally, for over 30 years. He wrote that Applicant is a man of great character and the highest integrity, who possesses the same human reliability qualifications as those highly-cleared personnel with whom he served on active duty, and strongly endorsed him for a security clearance. Another retired military veteran and defense contractor wrote that Applicant is a man of good moral character with an unblemished professional reputation. He described Applicant as "decent to the core. Honest, trustworthy, dedicated and intelligent." He has known Applicant personally and professionally since they worked together at Company Z supporting Country B's air force from July 2008 to November 2009, and wrote, "Never once did he violate his commitment and moral obligation to [Company Z]."¹² Another individual who has known Applicant for more than 30 years and worked with him on a number of projects supporting the Country A air force

¹⁰Tr. 28-29.

¹¹Tr. 110-111.

¹²This letter's author did not indicate any awareness of Applicant's subsequent work with Company Y as a consultant in connection with their successful effort to replace Company Z on the Country B contract.

described him as “a man of sound character, good judgement, honesty, solid integrity, intelligence and trustworthiness.” This writer described Applicant’s superior ability to meet professional challenges, strong work ethic, goodwill to all, American spirit, and unlimited potential. Applicant said that he had received many certificates of achievement from colleges and awards from former employers, but did not provide copies of any such documents. (AE A; AR; Tr. 26.)

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions (DCs) and mitigating conditions (MCs), 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, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶¶ 2(a) and 2(c), the entire process is a conscientious scrutiny of applicable guidelines in the context 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 access to classified information will be resolved in favor of the national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, “[t]he 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” Section 7 of Executive Order 10865 provides: “[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.”

A person applying for access to classified information seeks to enter 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 protect or

safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Analysis

Guideline F, Financial Considerations

The security concerns under the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

The record evidence potentially raises security concerns under two Guideline F DCs, as set forth in AG ¶ 19:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant made over \$500,000 worth of speculative real estate investments in a blighted area of a distant city in 2005. Due to the failure of hoped-for urban renewal efforts and his inability to properly manage the rental properties from afar, he never received his anticipated rental income and stopped paying the mortgage loans associated with those purchases in August 2007. He obtained an uncollectible default judgment against some of the developers who sold him the properties, but not against his mortgage lender. Two of these mortgage loans, totaling \$293,549, are alleged in the SOR, as is a related \$595 utility bill from 2007 that remains unpaid. In May 2007 he bought a preconstruction residential property in another state with a \$360,000 mortgage loan. He decided not to move there, and stopped making these mortgage payments in November 2007. Facing foreclosure, he made several unsuccessful attempts to convince the mortgage lender to accept a short sale. This lender reported a balance due of \$407,022 in January 2009, and received \$246,000 for the property later that month at a foreclosure auction. Applicant provided no evidence concerning resolution of the apparent resulting \$161,022 deficiency. This mortgage loan was also the subject of the judgment against Applicant that is alleged in SOR ¶1.a. A related \$469 utility bill incurred in 2008, while Applicant owned this property, also remains unpaid. Finally, three delinquent medical debts, totaling almost \$63,000, have remained unpaid since 2010. This evidence raised significant security concerns under DCs 19(a) and (c), thereby shifting the burden to Applicant to rebut, extenuate, or mitigate those concerns. The evidence does not support any other DC under this guideline.

The guideline includes five conditions in AG ¶ 20 that could mitigate security concerns arising from Applicant's financial difficulties:

(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, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(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;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant walked away from multiple unsound real estate investments in two different cities, for which hundreds of thousands of dollars in delinquent debt remains outstanding. He claims to have some equity in his home and some rapidly depleting savings, but has been unable or, when employed, unwilling to make payments toward those debts or his outstanding medical bills. Applicant failed to establish substantial mitigation under MC 20(a).

Applicant also offered insufficient evidence to support significant mitigation under MC 20(b). He entered into risky real estate speculations with little or no knowledge or experience concerning his subsequent challenges and obligations as an absentee landlord. These investments were made near the peak of the real estate bubble and in anticipation of continued strong growth in property values. However, he stopped making payments toward his first group of mortgages in August 2007 and toward his other home purchase in November 2007, before any substantial market collapse had taken effect. He says that he intends to pursue legal recourse against those to whom he owes mortgage and utility debts, but his only such effort to date involves an uncollectible default judgment against some bankrupt parties who were not his creditors. He paid three delinquent medical debts totaling about \$1,000 in March 2013, but has no plan in effect to resolve about \$63,000 in such remaining delinquencies and made no payments toward them while employed overseas from October 2010 to July 2012. The medical debts were beyond his control, but he did not demonstrate subsequent responsible

action to resolve them. He did not show that any of his periods of unemployment before 2012 were involuntary, or that they caused the financial problems alleged in the SOR.

Applicant did not undergo financial counseling, nor has he obtained legal representation to pursue what he purports to be valid grounds to dispute his ongoing obligation to repay his delinquent debts. He obtained a form to request forgiveness of his largest medical debt, but had not submitted it to the creditor as of the close of the record. He has not made any effective effort to repay or otherwise resolve any of the SOR-listed delinquent debts, or documented a legitimate basis to dispute their validity. These facts preclude significant mitigation under MC 20(c), (d), or (e).

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(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.

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 considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant is a sincere and personally impressive individual, who voluntarily entered into substantial and risky real estate speculations without sufficient knowledge or experience to succeed. He also suffered a serious medical condition requiring hospitalization during a period when he did not have health insurance. He is mature and accountable for his choices and actions, and has remained current on other debt obligations. He abandoned multiple properties to foreclosure, and remains liable for more than \$500,000 in debt. He claims that he was legally wronged in connection with his real estate purchases, but has taken no effective action in the past seven years to resolve the resulting indebtedness despite being denied a security clearance due to financial considerations in 2009. While his efforts may prove successful in time, he has not yet demonstrated positive permanent behavioral changes or rehabilitation. His conduct with respect to these voluntarily assumed financial obligations was neither responsible nor indicative of trustworthiness.

The potential for exploitation or duress remains significant due to the number and magnitude of his outstanding debts. The likelihood of continuation of these issues has not yet been reduced. Applicant has a long and distinguished record of valuable service managing defense and foreign military sales contracts, and the trust and confidence of former coworkers. Overall, however, the record evidence creates ongoing doubt as to Applicant's present eligibility and suitability for a security clearance.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant ¹³
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	Against Applicant
Subparagraph 1.h:	Against Applicant
Subparagraph 1.i:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

DAVID M. WHITE
Administrative Judge

¹³This judgment concerned the first mortgage on the preconstruction home Applicant purchased in another state. The underlying property was subsequently sold at a foreclosure sale. The amount found outstanding on this debt is accordingly reduced to \$114,000. The circumstances of the transaction remain unchanged.