



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



In the matter of: )  
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----- ) ADP Case No. 13-01161<sup>1</sup>  
 )  
Applicant for Public Trust Position )

**Appearances**

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

05/09/2014

**Decision**

Harvey, Mark, Administrative Judge:

Applicant’s statement of reasons (SOR) alleges 18 delinquent or charged-off debts and a foreclosure together totaling \$249,367. He is making payments on his student loans, and his child support is current. However, he did not make sufficient progress resolving his other financial problems. He failed to disclose his negative financial information on his Electronic Questionnaires for Investigations Processing (e-QIP) or application for access to sensitive information because he was in a hurry, and he was concerned disclosure might adversely affect his access to sensitive information. Financial considerations and personal conduct concerns are not mitigated. Eligibility for access to sensitive information is denied.

**Statement of the Case**

On May 3, 2013, Applicant submitted his e-QIP. (GE 1) On November 25, 2013, the Department of Defense (DOD) issued an SOR to Applicant, pursuant to DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program*, dated Jan. 1987, as amended

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<sup>1</sup> Department Counsel explained that this is an ADP case, and Applicant was not seeking access to classified information. (Tr. 18-19)

(Regulation); and the adjudicative guidelines (AG) the President promulgated on December 29, 2005.

The SOR alleges trustworthiness concerns under Guidelines F (financial considerations) and E (personal conduct). (Hearing Exhibit (HE) 2) The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Regulation that it is clearly consistent with the national security to grant or continue Applicant's eligibility to occupy a public trust position, which entails access to sensitive information. (HE 2) DOHA recommended referral to an administrative judge to determine whether such access to sensitive information should be granted, continued, denied, or revoked.

On December 23, 2013, Applicant submitted his response to the SOR and requested a hearing. (HE 3) On February 25, 2014, Department Counsel indicated he was ready to proceed on Applicant's case. On February 27, 2014, DOHA assigned Applicant's case to me. On March 25, 2014, Applicant's hearing was scheduled for April 7, 2014. Applicant waived his right to 15 days of notice of the date, time, and location of his hearing. (Tr. 21-22) Applicant's hearing was held as scheduled using video teleconference. Department Counsel offered six exhibits, and Applicant did not offer any exhibits. (GE 1-6) (Tr. 25-28) There were no objections, and I admitted GE 1-6. (Tr. 28) Additionally, I admitted the hearing notice, SOR, and Applicant's response to the SOR. (HE 1-3) On April 11, 2014, I received the transcript. I held the record open until April 30, 2014, to permit the Applicant to submit additional documentation. (Tr. 9, 15) On April 30, 2014, and May 7, 2014, Department Counsel provided Applicant's post-hearing submissions, which were admitted into evidence without objection. (AE A-N)

### **Findings of Fact<sup>2</sup>**

Applicant's SOR response admitted the allegations in SOR ¶¶ 1.b, 1.q, and 1.r. (HE 3) He denied the remaining allegations in SOR ¶ 1, and he did not address the allegations in SOR ¶ 2. (HE 3)

Applicant is a 36-year-old employee of a defense contractor, who is a computer operations specialist. (Tr. 7, 64; GE 1) He has been working continuously for his employer since 2004. (Tr. 66) He graduated from high school in 1996, and he attended college for 3 ½ years; however, he did not receive a bachelor's degree. (Tr. 7) He majored in computer science. (Tr. 8) He ended his college attendance in 2002. (Tr. 8, 44-45) He has never served in the military. (Tr. 8) Applicant has never been married. (Tr. 31) His daughter was born in 2003. (Tr. 31) Applicant's fiancé and her two children live with Applicant. (AE J)<sup>3</sup>

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<sup>2</sup>Some details have been excluded in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

<sup>3</sup> He listed two sons and one daughter in the dependent section on his 2011, 2012, and 2013 federal income tax returns. (AE F-J; GE 1)

## Financial Considerations

Applicant said his financial problems stemmed from having to pay \$800 monthly for child support. (Tr. 29, 41) He was unable to obtain a reduction from family court because the mother of his daughter has been out of the country for several years. (Tr. 30-33) The mother of his daughter married about four years ago to someone else, and she has had two more children. (Tr. 32, 36-37) Applicant has court-ordered joint custody of his daughter; however, in reality he has had physical custody of his daughter for most of her life. (Tr. 34-41) In 2012, the court reduced Applicant's child support to \$350 per month. (Tr. 36, 42) The court awarded Applicant an \$8,000 credit, which is being repaid to Applicant with \$70 monthly payments. (Tr. 42-43) Applicant's child support is paid automatically each pay period, and his child support is current. (Tr. 66; AE A)

Applicant's SOR alleges 14 student loan debts totaling \$60,547 owed to the U.S. Department of Education (USDOE) that have been placed for collection as follows: ¶ 1.a for \$7,731; ¶ 1.c for \$5,589; ¶ 1.d for \$4,122; ¶ 1.e for \$3,717; ¶ 1.f for \$3,132; ¶ 1.g for \$2,747; ¶ 1.h for \$2,697; ¶ 1.i for \$2,008; ¶ 1.j for \$1,506; ¶ 1.k for \$1,374; ¶ 1.l for \$1,337; ¶ 1.m for \$695; ¶ 1.o for \$16,349; and ¶ 1.p for \$7,543. Applicant started to receive statements on his student loans in 2003. (Tr. 45) He made some payments and some payments were deferred. (Tr. 46) The student loans went into collection status in 2008. (Tr. 46) His pay has been garnished since 2008 or 2009, and his federal tax refunds have been intercepted. (Tr. 47, 49) Department Counsel suggested that Applicant provide copies of his garnishment documentation and a recent credit report. (Tr. 48) In his SOR response, Applicant said his total student loan balance was about \$10,000. (HE 3) Department Counsel asked Applicant to provide documentation showing his student loans had been consolidated. (Tr. 48, 68) Applicant provided an April 18, 2014 letter indicating Applicant owed \$6,865 on one student loan. (AE B) On May 7, 2014, Applicant provided a list of six Stafford student loans totaling \$6,866, and an April 28, 2014 letter from the USDOE indicating the total balance owed to the USDOE is \$8,542. (AE K, L)

The SOR also alleges four debts totaling \$188,820 as follows: ¶ 1.b is a charged-off bank debt for \$6,164; ¶ 1.n is a mortgage debt in foreclosure for \$181,685; ¶ 1.q is a utility debt in collection for \$867; and ¶ 1.r is a utility debt in collection for \$104.

Applicant borrowed about \$5,000 in 2008 in an attempt to catch up on his child support and consolidate his other debts. (Tr. 50; SOR ¶ 1.b) He stopped making payments in May 2009. (Tr. 50) Applicant received an offer to settle the debt for \$3,000, and he is trying to reach an agreement with the creditor to resolve this debt. (Tr. 52) He did not provide any post-hearing information on this debt.

Applicant's residence was foreclosed in 2009. (Tr. 52, 57; SOR ¶ 1.n) He recalled signing documents that made him responsible for the mortgage at his mother's request. He believed the mortgage debt was resolved with a short sale, or settled and now had a zero balance. (Tr. 53; HE 3) He received a \$300 payment from the creditor; however, he did not know why the payment was made. (Tr. 53, 69) Department Counsel advised Applicant to check court records, property records, and with the creditor for proof of

resolution. (Tr. 53, 56-57) Applicant sent a letter to the mortgage company asking for information about this debt; however, Applicant did not provide any documentation received from the creditor, court records, or property records. (AE C-E)

Applicant said he was making payments to the creditor collecting the utility debt for \$867. (Tr. 57; SOR ¶ 1.q) Department Counsel asked Applicant to provide proof of payments to the creditor or collection agent. (Tr. 57) Applicant did not provide any post-hearing information on this debt.

Applicant said he had not made any payments to the creditor collecting the utility debt for \$104. (Tr. 57-58; SOR ¶ 1.r) Department Counsel asked Applicant to provide proof if he decided to pay this debt. (Tr. 58) Applicant did not provide any post-hearing information on this debt.

Applicant's tax returns for 2010 to 2013 showed his adjusted gross income (AGI) and student loan interest (SL) as depicted in the following table:

	AGI	SL Interest	Exhibit
2010	\$48,244	\$2,488	I
2011	\$52,266	\$574	H
2012	\$52,253	\$653	G
2013	\$50,730	\$308	F

On June 13, 2013, an Office of Personnel Management (OPM) investigator interviewed Applicant and discussed the 18 debts listed on the SOR with him. (GE 4) His statement to the OPM investigator about his finances was consistent with his hearing statement.

## Personal Conduct

On May 3, 2013, Applicant completed his e-QIP. Section 16—**Financial Record** asked three questions seeking information in the last seven years: (1) have you had “any repossessions or property voluntarily or involuntarily repossessed or foreclosed?”; (2) have “you defaulted on any type of loan?”; and (3) have “you had any bills turned over to a collection agency?” Applicant answered, “No” to all three questions. (GE 1)

Applicant said he answered, “No” because he was in a hurry to complete his e-QIP; and he thought he was a cosigner on the foreclosed mortgage and might not be responsible for that debt. (Tr. 63-64, 71) He was also concerned about disclosing that he had a foreclosure, delinquent student loans, and a history of difficulty paying his child support because he might not receive a security clearance. (Tr. 71-72)<sup>4</sup>

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<sup>4</sup> On June 13, 2013, Applicant told an Office of Personnel Management (OPM) investigator that he did not report his delinquent debts on his e-QIP, “because he was not sure that he needed to include them. He completed the forms while performing his employment duties and he must have overlooked the financial questions.” (GE 4 at 4)

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). The Government’s authority to restrict access to classified information applies similarly in the protection of sensitive, unclassified information. As Commander in Chief, the President has the authority to control access to information bearing on national security or other sensitive information and to determine whether an individual is sufficiently trustworthy to have access to such information. See *Id.* at 527.

Positions designated as ADP I and ADP II are classified as “sensitive positions.” Regulation ¶¶ C3.1.2.1.1.7 and C3.1.2.1.2.3. “The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person’s loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security.” Regulation ¶ C6.1.1.1. Department of Defense contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made. See Regulation ¶ C8.2.1.

When evaluating an applicant’s suitability for a public trust position, an administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied 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, reliable information about the person, past and present, favorable and unfavorable.

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

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant which may disqualify the applicant from being eligible for access to sensitive information. 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 (4<sup>th</sup> 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 and trustworthiness suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. ADP Case No. 06-12901 at 4 (App. Bd. July 31, 2007) (citing Directive ¶ E3.1.15.). An applicant has “the ultimate burden of persuasion as to obtaining a favorable trustworthiness determination.” ADP Case No. 06-14978 at 2 (App. Bd. Jan. 18, 2008) (citing Directive ¶ E3.1.15.). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance [or trustworthiness] determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

The protection of the national security and sensitive records is of paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of national security.”

## Analysis

### Financial Considerations

AG ¶ 18 articulates the trustworthiness concern relating to financial problems:

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 ¶ 19 provides two disqualifying conditions that could raise a trustworthiness concern and may be disqualifying in this case: “(a) inability or unwillingness to satisfy debts;” and “(c) a history of not meeting financial obligations.” In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

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

(internal citation omitted). Applicant’s history of delinquent debt is documented in his credit reports, his OPM interview, and his hearing record. Applicant’s SOR alleges 18 delinquent or charged-off debts and a foreclosure together totaling \$249,367. He did not make payments to the SOR creditors as agreed. The Government established the disqualifying conditions in AG ¶¶ 19(a) and 19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five mitigating conditions under AG ¶ 20 are potentially applicable:

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

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, 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;<sup>5</sup> 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's conduct in resolving his delinquent debt does not warrant full application of any mitigating conditions to all of his SOR debts. However, Applicant is credited with mitigating his 14 student loan debts totaling \$60,547 because of his history of making payments even though the payments were due to garnishment and interception of his tax refunds.<sup>6</sup> The 14 student loans could be duplications of each other, and the USDOE correspondence appears to address all USDOE loans.

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<sup>5</sup>The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term "good-faith." However, the Board has indicated that the concept of good-faith "requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation." Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) in order to claim the benefit of [the "good faith" mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

<sup>6</sup>See ISCR Case No. 08-06059 at 6 (App. Bd. Sept. 21, 2009) (indicating involuntary payment of debts through garnishment is not necessarily mitigating).

Applicant is not credited with resolution of his \$181,685 mortgage debt in SOR ¶ 1.n. Applicant speculated that his mortgage debt could have been resolved through a short sale or under state law. However, he did not provide documentation showing he disputed the information about this mortgage debt in his credit reports, and he did not provide documentation from a court or the creditor showing resolution of his debt. His mortgage debt is not mitigated under AG ¶ 20(e) because of the lack of documentation.

Applicant did not describe receipt of financial counseling, and he has not shown sufficient progress paying his debts after his child support obligation was reduced. Applicant has not provided documentation establishing that he has taken reasonable actions to resolve the four SOR debts in ¶¶ 1.b, 1.n, 1.p, and 1.q. He did not provide documentation proving that he maintained contact with his SOR creditors, and he did not provide any documentation showing his attempts to negotiate payment plans with the four SOR creditors.<sup>7</sup> There is insufficient evidence that his financial problem is being resolved and is under control. He did not establish his financial responsibility.

## **Personal Conduct**

AG ¶ 15 expresses the trustworthiness concern pertaining to personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

One personal conduct disqualifying condition under AG ¶ 16 is potentially applicable. AG ¶ 16(a) provides, “(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire . . . used to conduct investigations, . . . [to] determine security clearance eligibility or trustworthiness. . . .”<sup>8</sup>

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<sup>7</sup>“Even if Applicant’s financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties.” ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

<sup>8</sup>The Appeal Board has cogently explained the process for analyzing falsification cases, stating:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant’s intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant’s intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E and the



Section 16—**Financial Record** of Applicant’s May 3, 2013 e-QIP asked for the following information in the last seven years: (1) have you had “any repossessions or property voluntarily or involuntarily repossessed or foreclosed?”; (2) have “you defaulted on any type of loan?”; and (3) have “you had any bills turned over to a collection agency?” Applicant answered, “No” to all three questions.

Applicant may have been unsure about his financial responsibility relating to the foreclosure of the home where he was living, and SOR ¶ 2.a is mitigated. However, Applicant read the questions; he has sufficient education to understand the plain meaning of the questions; and he knew about debts that were in default status and turned over to a collection agency. His failure to disclose information about defaulting on loans and debts in collection was a deliberate decision made with intent to conceal adverse information about his worthiness to receive access to sensitive information.

AG ¶ 17 provides seven conditions that could mitigate trustworthiness concerns in this case:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

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burden of persuasion had shifted to the applicant to present evidence to explain the omission.

ISCR Case No. 03-10380 at 5 (App. Bd. Jan. 6, 2006) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).

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

(g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

None of the mitigating conditions apply. Applicant's failure to disclose negative financial information on his May 3, 2013 e-QIP is recent, serious, and casts doubt on his reliability, trustworthiness, and good judgment. Personal conduct concerns are not mitigated.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a public trust position by considering the totality of the Applicant's conduct and all the 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 public trust position must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guidelines 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.

There are some facts supporting mitigation of trustworthiness concerns under the whole-person concept; however, they are insufficient to fully mitigate trustworthiness concerns. Applicant is a 36-year-old computer operations specialist, who has been an employee of a defense contractor since 2004. He graduated from high school in 1996; he attended college for 3 ½ years; and he majored in computer science. He ended his college attendance in 2002. Applicant has never been married. His daughter was born in 2003. He has made some progress towards mitigation of financial considerations concerns related to his public trust position by keeping his child support current and making payments on one of his student loans. There is no evidence of violations of his public trust position or disloyalty to his employer or the United States.

The evidence against approval of Applicant's clearance is more substantial at this time. Applicant has not taken reasonable actions to resolve and document resolution of four of his delinquent debts or accounts, totaling \$188,820. He failed to prove that he could not have made greater progress resolving and documenting resolution of his SOR debts. He was unsure about the status of the debt arising from the foreclosure of his residence. The objective fact remains that his "[f]ailure or inability to live within [his] 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 [his] reliability, trustworthiness, and ability to protect [sensitive] information." See AG ¶ 18.

Most importantly, Applicant failed to disclose negative financial information on his May 3, 2013 e-QIP, in part, because he was concerned disclosure could adversely affect consideration of his access to sensitive information. Failure to provide truthful and candid information in the context of an e-QIP raises grave unresolved concerns about eligibility for access to sensitive information.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 12968, the Directive, the Regulation, the AGs, and other cited references to the facts and circumstances in the context of the whole person. I conclude Applicant is not eligible to occupy a public trust position.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraphs 1.c to 1.m:	For Applicant
Subparagraph 1.n:	Against Applicant
Subparagraphs 1.o and 1.p:	For Applicant
Subparagraphs 1.q and 1.r:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraphs 2.b and 2.c:	Against Applicant

## **Conclusion**

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

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MARK HARVEY  
Administrative Judge