



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



In the matter of:)
)
) ISCR Case No. 14-02948
)
)
Applicant for Security Clearance)

Appearances

For Government: Jeff Nagel, Esq., Department Counsel
For Applicant: Arran Treadway, Esq.

February 29, 2016

Decision

GOLDSTEIN, Jennifer I., Administrative Judge:

Applicant was alleged to be delinquent on 14 debts, in the total amount of \$27,045. He testified that all of his delinquent debts were included in a 2011 Chapter 7 bankruptcy filing. Unbeknownst to him, that bankruptcy filing was dismissed by the court in March 2012 due to his failure to complete the requisite financial counseling. He testified that he paid an attorney to refile the bankruptcy on his behalf in December 2015. He failed to produce documentation to support his claim that his debts were resolved through bankruptcy. He also remains delinquent to the Federal Government on a tax lien filed against him. Additional security concerns were raised by Applicant's lengthy history of conduct involving questionable judgment and by his failure to disclose his police record on his electronic Security Clearance Application (e-QIP). Applicant failed to mitigate both the financial concerns and the personal conduct concerns. Eligibility for access to classified information is denied.

Statement of the Case

On February 25, 2010, Applicant submitted an e-QIP. On August 5, 2015, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a

Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F (Financial Considerations), and E (Personal Conduct). The action was taken under Executive Order (EO) 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 effective September 1, 2006.

Applicant answered the SOR on September 8, 2015 (Answer), and requested a hearing before an administrative judge. The case was assigned to me on October 29, 2015. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on November 4, 2015, scheduling the hearing for December 15, 2015. The hearing was convened as scheduled. The Government offered Hearing Exhibit (HE) I and Exhibits (GE) 1 through 7. GE 1 through GE 7 were admitted without objection. Applicant testified on his own behalf and offered six exhibits marked Applicant Exhibit (AE) A through F. AE A through AE F were admitted without objection from Department Counsel. The record was left open for receipt of additional documentation. On January 26, 2016, Applicant presented 32 additional pages of documentation, marked as AE G through AE M. Department Counsel had no objections to AE G through AE M, and they were admitted. The record then closed. DOHA received the transcript of the hearing (Tr.) on December 28, 2015.

Findings of Fact

Applicant is 45 years old. He has worked as an employee of a government contractor since 2007. He held a security clearance from 1999 to 2004, in connection with his employment by another government contractor. He has never married. He has two children, ages 17 and 22. (GE 1; Tr. 50-53, 56; 64-68.)

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions and displayed personal conduct that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations. His financial problems and personal conduct allegedly raised questions about his reliability, trustworthiness, and ability to protect classified information. Applicant is alleged to be delinquent on 14 debts, in the total amount of \$27,045. Applicant admitted the debts alleged in SOR subparagraphs 1.a through 1.k, and 1.m through 1.o. He denied the debt listed in 1.l, because he did not recognize the account. He admitted the citations and criminal conduct alleged in SOR subparagraphs 2.b through 2.w. He denied 2.a because he did not recall the event, and he denied falsifying his e-QIP as alleged in SOR subparagraphs 2.x and 2.y. He failed to admit or deny 2.z, and therefore it is interpreted as a denial. The alleged debts were listed on credit reports dated March 9, 2010; January 6, 2014; October 21, 2015; and December 12, 2015. (GE 4; GE5; GE 6; GE 7.)

Applicant filed Chapter 7 bankruptcy in December 2011. Unbeknownst to him, that bankruptcy filing was dismissed by the court in March 2012 due to his failure to complete the requisite financial counseling. He testified that he only met his bankruptcy attorney twice, and was unaware of the requirement to complete financial counseling.

He thought that his debts had been discharged and only learned of the dismissal when he received the SOR. He documented that he hired another bankruptcy attorney on December 11, 2015. He testified that his new attorney will refile his Chapter 7 bankruptcy. He claimed it included all of his delinquent debts as listed in the SOR. He did not provide documentation that the Chapter 7 bankruptcy had been refiled or that the SOR debts were listed in that filing. (GE 3; GE 4; GE5; GE 6; GE 7AE E; Tr. 25-27, 70.)

Applicant's 14 SOR-listed debts include: a \$5,992 debt to the Federal Government for a tax lien; a medical debt of \$100; two collection accounts owed to the same creditor in the amounts of \$1,656 and \$1,661, respectively; two charged-off accounts owed to the same creditor in the amounts of \$467 and \$405, respectively; a \$690 collection account; a \$387 collection account; a medical debt of \$55; a delinquent credit card debt in the amount of \$1,565; a collection account in the amount of \$10,762; a medical collection account in the amount of \$439; a collection account in the amount of \$2,201; and a collection account in the amount of \$665. All but one of these delinquencies remains unaddressed. (GE 3; GE 4; GE5; GE 6; GE 7; AE E; Tr. 25-37, 54.)

The only SOR-listed debt that has been partially addressed was Applicant's Federal tax lien in the amount of \$5,992, for tax years 2006 and 2007. The debt was reduced through the garnishment of subsequent tax years' overpayments. A September 2015 IRS statement shows that Applicant's tax debt has been reduced to \$3,302.54. (AE F.) Applicant also provided records that showed he filed his 2012 and 2013 Federal income tax returns late, in August 2015. His 2011 Federal income tax return was received by the IRS on January 26, 2016, the date his post-hearing submission was submitted. (AE E; AE F; AE H; AE I; AE J; AE L; AE M; Tr. 26-27, 51-52, 64-65.)

In addition to Applicant's financial delinquencies, his personal conduct was alleged to raise security concerns. Applicant has a lengthy history of traffic infractions, criminal arrests and convictions, and poor judgment from 1988 through at least 2008. Applicant admits, and his record reflects the following:

In June 1988, Applicant was charged with vehicle theft and receiving stolen property, as alleged in SOR subparagraph 2.w. His case was dismissed under a plea agreement. (Answer; GE 2.)

In September 1988, Applicant was cited or charged in three separate instances with criminal violations or infractions. He was charged with a fare evasion infraction and willfully violating a promise to appear in court as required as alleged in SOR subparagraph 2.v. In September 1999, a warrant for his arrest was issued for failure to appear on this charge. He was cited for an illegal left turn or U-turn, and willfully violating a promise to appear in court as required, as alleged in SOR subparagraph 2.u. Additionally, he was charged with possession of an illegal narcotic, as alleged in SOR subparagraph 2.t. On this occasion, Applicant was in possession of crack/cocaine. He was sentenced to probation under a diversionary agreement on for this charge, but failed to comply with the conditions of his diversionary agreement and his probation was

revoked. Ultimately, he completed the diversionary program in July 1991. (Answer; GE 2.)

In January 1989 he was charged with improper stop at a red signal, vehicle light infraction, speeding, failure to have a valid driver's license, and willfully violating a promise to appear in court as required, as alleged in SOR subparagraph 2.s. (Answer.)

In March 1992 Applicant was charged with driving under the influence; driving under the influence with .08 or higher alcohol concentration; driving on a suspended/revoked driver's license; not wearing a seat belt; and willfully violating promise to appear in court as required, as alleged in SOR subparagraph 2.r. Applicant pled guilty to driving under the influence and not wearing a seat belt, and the other charges were dismissed pursuant to a plea agreement. Applicant was sentenced to serve two days confinement, placed on five years of summary probation, fined \$1,505, and his driver's license was suspended for 210 days. His probation was revoked on approximately four occasions because he failed to comply with the conditions of his probation. (Answer.)

In December 1996 Applicant was charged with missing a license plate; failure to have a lamp over a license plate; driving on the wrong side of highway; possession of marijuana while driving; and willfully violating promise to appear in court as required, as alleged in SOR subparagraph 2.q. His case was referred to collections after he failed to appear in court and/or pay the fine. (Answer.)

In August 1999 Applicant was charged with improper stop at a stop sign or intersection and driving on a suspended/revoked driver's license, as alleged in SOR subparagraph 2.p. After failing to appear in court and/or pay a fine, a warrant was issued for his arrest. His case was referred to collections. Additionally, the same month, Applicant was charged with battery against a spouse, former spouse, parent of their child, fiancé or co-habitant and prevent or dissuade witness or victim, public offense, as alleged in SOR subparagraph 2.o. He pled guilty to battery against a spouse, former spouse, parent of their child, fiancé or co-habitant and the other charge was dismissed pursuant to a plea agreement. Applicant was sentenced to summary probation, fined, and court-ordered to attend an anger management program. His probation was revoked on multiple occasions because he failed to comply with the terms of probation. In November 2002, he was committed to 210 days of confinement. (Answer.)

In October 1999 Applicant was charged with failure to hold a valid driver's license; no proof of insurance; and willfully violating a promise to appear in court as required, as alleged in SOR subparagraph 2.n. In December 1999 a warrant for his arrest was issued when he failed to appear in court concerning these charges. Eventually, he did appear, and pled guilty to failure to hold a valid driver's license and no proof of insurance. He was sentenced to three years of probation and fined \$200. (Answer.)

In June 2000, he was charged on two separate occasions with speeding, as alleged in SOR subparagraphs 2.l and 2.m. He failed to appear in court on either charge

and he failed to remit either fine. As a result, his cases were referred to collections. (Answer.)

In July 2000, Applicant was charged with third degree driving while license suspended, as alleged in SOR subparagraph 2.k. This charge was dismissed without prejudice. (Answer.)

In January 2001 Applicant was charged with driving under the influence; driving under the influence with 0.08 or higher alcohol concentration; driving on a suspended/revoked license; falsely representing/identity themselves as another to a peace officer; and open container of alcohol in a vehicle, as alleged in SOR subparagraph 2.j. On this occasion, Applicant was consuming alcohol at a party, got into an argument with his girlfriend, and drove her home. He was stopped by police as he returned to the party. He did not have a valid driver's license at that time and pretended to be his brother. He pled guilty to driving under the influence and the remaining charges were dismissed pursuant to a plea bargain. He was sentenced to complete alcohol classes. He indicated to an investigator that he attended the alcohol classes until he could no longer make the payments for the counseling, although he testified at hearing that he completed the counseling as required. (Answer; GE 3; Tr. 42.)

In May 2001 Applicant was charged with using an ineligible discount ticket and prohibited actions on a trolley, as alleged in SOR subparagraph 2.i. Applicant failed to appear in court and the account was referred for collection. Similarly, in February 2002, Applicant was charged with fare evasion, as alleged in SOR subparagraph 2.h. He again failed to appear in court and the fine was referred for collection. (Answer.)

In April 2002 Applicant was charged with first degree robbery and forcible kidnapping by use of force, as alleged in SOR subparagraph 2.g. Applicant went to an ATM and had an acquaintance withdraw \$300. Applicant then took the money from the acquaintance. Applicant pled guilty to the amended charge of grand theft and he was sentenced to 270 days confinement, placed on three years of summary probation, and fined \$454.84. Applicant repaid the acquaintance for the money he took. (Answer; GE 3.)

In November 2002 Applicant was charged with corporal injury resulting in a traumatic condition to a current/former spouse, co-habitant or parent; battery against a spouse, former spouse, parent of their child, fiancé or cohabitant; battery; and trespassing, as alleged in SOR subparagraph 2.f. Applicant brought his girlfriend to a second girlfriend's house "for a threesome." When they were in bed, one of the girlfriends found out that Applicant was dating both girls. It turned into a physical confrontation. One of the women called the police and Applicant was arrested after both women were found to have marks and bruises on them. Applicant pled guilty to corporal injury resulting in a traumatic condition to a current/former spouse, co-habitant or parent and the other charges were dismissed pursuant to a plea agreement. Applicant was sentenced to three years of summary probation, and 300 days confinement if he failed

to comply with the terms of his probation. His probation was revoked and he was committed to jail after he violated the terms of probation. (Answer; GE 3.)

In March 2003 Applicant was again charged with fare evasion, as alleged in SOR subparagraph 2.e. He failed to appear in court and the fine was referred for collection. (Answer.)

In May 2003 Applicant was charged with vandalism; trespassing; prevent dissuade victim/witness; willfully allow/cause child to suffer harm/death or allow situation where either could occur; and battery, as alleged in SOR subparagraph 2.d. On this occasion, Applicant became upset with the mother of his son, while visiting his son at a motel. He broke a window and tried to open a door to get into their room. He was arrested. He pled guilty to vandalism; trespassing; and willfully allow/cause child to suffer harm/death or allow situation where either could occur; and the remaining charges were dismissed pursuant to a plea agreement. He was sentenced to 24 days confinement, placed on summary probation for three years, fined \$400, and court ordered to attend 52 weeks of domestic violence rehabilitation and 2 Alcoholics' Anonymous meetings per week for four weeks. His probation was revoked on multiple occasions due to his failure to comply with the conditions of his probation. He testified that he completed the 52-week domestic violence course, as required. (Answer; GE 2; GE 3; Tr. 39-41.)

In September 2005 Applicant was charged with fourth degree domestic violence, as alleged in SOR subparagraph 2.c. This arrest involved an ex-girlfriend who was jealous when she met another woman at Applicant's apartment. He indicated she called the police, but he did not hit her as she claimed. He failed to appear in court and a bench warrant was issued for his arrest. The warrant expired in January 2014. Applicant testified that this charge was dismissed without prejudice. (Answer; GE2; GE 3; Tr. 38-39.)

In December 2007, Applicant was charged with driving on a suspended/revoked license, as alleged in SOR subparagraph 2.b. Applicant failed to appear in court or pay the fine and the account was referred to collections. (Answer; Tr. 38.)

It is alleged in SOR subparagraph 2.a that in May 2008 Applicant was charged with driving on a suspended/revoked driver's license. However, Applicant denied this allegation in his Answer, stating, "I don't remember this ticket." Applicant claimed to currently have a valid driver's license and insurance on his vehicle. The Government failed to produce evidence to substantiate this allegation. It is found in Applicant's favor. (Answer; Tr. 37.)

The SOR also alleged that Applicant failed to disclose his May 2008 and December 2007 citations on his February 25, 2010 security clearance application in his answer to Section 22(a).¹ Additionally, it was alleged that he failed to disclose his September 1988 charge of possession of an illegal narcotic; his 1988 charge of illegal

¹ As the March 2008 citation was not established by the Government evidence, Applicant would not have been expected to disclose a citation that he does not believe occurred.

left turn and willfully violating a promise to appear; and his June 1988 charge of vehicle theft and receiving stolen property in his e-QIP answer to Section 22(e) regarding offenses related to alcohol or drugs.² Applicant testified that he was not attempting to hide any of his arrests, but that he made an honest mistake. He answered Sections 22(a) and 22(e) “Yes,” and identified five of his arrests and convictions. In the notes, he acknowledged that he might have unintentionally omitted one of his many arrests. Given that he was unable to recall details of many of his arrests, his omissions were not intentional. (GE 1; Tr. 46-50.)

Applicant presented three reference letters from supervisors and colleagues. Each reflects that Applicant has a can-do attitude and displays superior skills at his position. His supervisor indicated, “he is a hardworking and very punctual employee who has earned the trust of every supervisor he has worked for while performing installations.” (AE A; AE B; AE C.) Applicant earned a monetary performance award for his outstanding performance in 2014. (AE D.)

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 and mitigating conditions, which are to be used in evaluating an applicant’s eligibility for access to classified information.

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

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for 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, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The

² It is not clear from the evidence that his 1988 charge of illegal left turn and willfully violating a promise to appear; and his June 1988 charge of vehicle theft and receiving stolen property were alcohol or drug related.

applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.

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

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

Analysis

Guideline F, Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18:

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

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

Applicant remains delinquent on 14 debts, in the total amount of approximately \$27,045. He testified that all of his delinquent debts were included in a 2011 Chapter 7 bankruptcy filing. However, that bankruptcy filing was dismissed by the court in March 2012 due to his failure to complete the requisite financial counseling. He paid an attorney to refile the bankruptcy on his behalf in December 2015, but failed to produce documentation to show that the petition had been filed. He also remains delinquent to the Federal Government on a tax lien filed against him, which is only being resolved through the garnishment of his annual Federal tax overpayments. He demonstrated

both a history of not addressing debts and an inability or unwillingness to do so over a substantial period. The evidence is sufficient to raise the above disqualifying conditions.

The following Financial Considerations mitigating conditions (MC) 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; 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 incurred substantial delinquent debt, which caused him to file Chapter 7 bankruptcy in 2011. However, that debt was not discharged and continues to date, despite his full employment and intent to refile for bankruptcy again. He offered no evidence from which to establish a track record of debt resolution. He failed to show conditions beyond his control caused his debt and contributed to his financial problems. He did not act responsibly under such circumstances to make sure he completed the requirements for his 2011 bankruptcy or to address the SOR-listed debts. While his Federal tax debt is slowly being resolved through garnishment, he has not established a good-faith effort to repay this debt. While he received financial counseling as part of his future bankruptcy petition, his financial problems are not under control. There has been no documented good-faith effort to address his debts and Applicant's financial problems are likely to continue in the future. Applicant indicated he was unsure of one alleged debt, but did not dispute it formally. Accordingly, the record is insufficient to establish mitigation under any of the foregoing provisions concerning his financial irresponsibility.

Guideline E, Personal Conduct

The security concern for the Personal Conduct 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.

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

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(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; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing, or (2) while in another country, engaging in any activity that is illegal in that country or that is legal in that country but illegal in the United States and may serve as a basis for exploitation or pressure by the foreign security or intelligence service or other group.

Applicant failed to list several of his SOR-listed citations and arrests on his e-QIP. However, during his testimony, it was clear that he did not have a good recollection of those citations, arrests and/or convictions. Applicant did his best to answer the e-QIP honestly and his omissions were unintentional. Security concerns under AG ¶ 16(a) were not established.

Applicant's poor financial decisions demonstrated by his unresolved financial delinquencies, and his lengthy history of violating traffic and criminal statutes, show that he has poor self-control, lacks good judgment, and is unwilling to abide by rules and regulations. Similarly, Applicant's criminal history and financial difficulties create a

vulnerability to exploitation, manipulation, or duress. Security concerns under AG ¶¶ 16(c) and 16(e) are substantial, and shift the burden to Applicant to mitigate them.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (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; and
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

After considering these potential mitigating conditions, it is apparent that none of them were established in this case. Applicant did not make prompt or good-faith efforts to correct his falsification and concealment, although his omissions were found to be unintentional. He provided no information that indicates he was ill-advised in completing his e-QIP, although this is irrelevant to the concerns at hand. Applicant's criminal violations and traffic infractions occurred over an extended period of time. While he has not committed any criminal offenses since 2007, the seriousness of his past crimes and the on-going nature of his financial difficulties indicate that Applicant's reliability, trustworthiness, or good judgment are still in question. He has not provided sufficient evidence to meet his burden of proof concerning his personal conduct.

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 all of the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. 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 has the burden to demonstrate sufficient mitigating information in this case and he has failed to meet that burden. While Applicant has not had a criminal violation or infraction since 2007 and is a respected employee at his place of employment, overall, he has not demonstrated that he has acted responsibly with respect to his finances or his personal conduct. Applicant's inability to resolve his financial obligations and his lengthy criminal record continues to raise concerns about his reliability, trustworthiness, and ability to follow rules and regulations necessary to protect classified information. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, Applicant has not mitigated the Financial Considerations or the Personal Conduct security concerns.

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
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
Subparagraph 1.j:	Against Applicant
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	Against Applicant
Subparagraph 1.m:	Against Applicant
Subparagraph 1.n:	Against Applicant
Subparagraph 1.o:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraphs 2.b through 2.w:	Against Applicant
Subparagraph 2.x through 2.y:	For Applicant
Subparagraph 2.z:	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 or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Jennifer I. Goldstein
Administrative Judge