DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 14-01782
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: *Pro se*

03/04/2015

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant and his spouse could not make payments on some of their credit cards when rental properties they owned were not fully rented, and there was a fire at one of the properties. Approximately $17,076 in credit card debt was placed for collection. The financial considerations are mitigated because the debts have been resolved. The personal conduct concerns raised by his failure to disclose any financial delinquencies on his security clearance application are not fully mitigated. Clearance is denied.

Statement of the Case

On June 25, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue a security clearance for him. The DOD CAF took the action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant submitted an undated response to the SOR allegations. He requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA) if his security clearance could not be adjudicated favorably based on the information he provided. On October 2, 2014, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On October 27, 2014, I issued a Notice of Hearing scheduling the hearing for November 20, 2014.

I convened the hearing as scheduled. Five Government exhibits (GEs 1-5) were admitted into evidence without objection. Applicant, who was assisted in the presentation of his case by his daughter, submitted six Applicant exhibits (AEs A-F), which were admitted without any objections. Applicant and his daughter testified, as reflected in the transcript (Tr.) received on December 4, 2014.[1]

I held the record open after the hearing for Applicant to supplement the record. On December 4, 2014, Applicant submitted two additional documents. Department Counsel filed no objections by the December 12, 2014 deadline for comment. The documents were marked and entered as AEs G and H.

Summary of SOR Allegations

The SOR alleges, under Guideline F, that as of June 25, 2014, Applicant owed a total of $26,881 on three accounts in collection (SOR 1.a, 1.c, and 1.d) and a $60 medical debt (SOR 1.b). Under Guideline E, Applicant is alleged to have falsified his November 2013 Electronic Questionnaire for Investigations Processing (e-QIP) by denying any delinquency involving routine accounts (SOR 2.a).

When he answered the SOR, Applicant admitted that he had incurred the debts in SOR 1.a, 1.b, and 1.c, but the debt in SOR 1.d was a duplicate listing of the debt in SOR 1.a. Applicant asserted that the debt in SOR 1.a had been settled in May 2013; the medical debt in SOR 1.b had been paid in full in July 2014; and the debt in SOR 1.c had been settled in June 2014. In response to the Guideline E concern, Applicant denied that he knowingly falsified his e-QIP. He explained that he knew his credit report would be obtained, and that he would never intentionally jeopardize his defense contractor employment over the three debts.

Before the introduction of any evidence at the hearing, the Government stipulated that SOR 1.a and 1.d allege the same debt, and also that Applicant was an authorized user on the account in SOR 1.c, which was his spouse's debt.

[1] Department Counsel waived sequestration so that Applicant's daughter could assist Applicant in the presentation of his case and also testify on his behalf with the stipulation that Applicant's daughter testify before Applicant.

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact:

Applicant is a 61-year-old warehouse worker, who has been employed by the same defense contractor since October 2002. (GE 1; Tr. 85.) He seeks to retain a secret-level security clearance, which he has held since January 2004. (GE 1; Tr. 86.)

Applicant is a naturalized U.S. citizen, who came to the United States as a teenager.[2] He and his spouse were neighbors as children in their native country. They married in the United States in September 1975. (GEs 1, 4.) They have two grown children: a daughter born in 1978 and a son born in 1985. (GE 1.) Applicant and his spouse purchased their present residence, a single-family home, in 1986. (GEs 1, 2.) In July 2001, they took on a primary mortgage of $110,000. In March 2003, they took on a home equity loan of $25,000, which they refinanced for $64,000 in October 2005. In November 2006, they refinanced their primary mortgage for $185,000. (GE 3; Tr. 37-38, 47.)

In May 2004, Applicant and his spouse bought a three-family rental property with a $150,000 mortgage loan (property #1). They bought a second three-family house (property #2) that is now completely paid for. (GEs 3, 5; Tr. 36-38, 68.) It is unclear when that property was purchased.

In 2011, Applicant and his spouse began falling behind in their mortgage payments on rental property #1 because some of his apartment units were vacant. (Tr. 36, 51, 53-54, 87.) Applicant had a MasterCard account (SOR 1.d) that became delinquent. In December 2012, a $7,348 debt balance on the account was placed for collection (SOR 1.a). (GE 3.)

In 2012, a juvenile started a fire in property #2's garage. At the time, only the first floor of property #2 was rented out, so they were without rental income totaling $1,650 per month for the other two units. (Tr. 71-72.) Applicant and his spouse also had to cover the $5,000 in demolition costs after the fire. (Tr. 35-36, 50-51, 55.) They paid the debt in $500 monthly installments. (Tr. 70.) This extra expense, coupled with the lack of tenants, led them to fall behind 30 days several times on their primary mortgage and 30 to 60 days on property #1's mortgage. (GE 3; Tr. 88.) In August 2012, a VISA card account (SOR 1.c) belonging to his spouse, on which Applicant was an authorized user, was referred for collection for $8,300. (GE 3; Tr. 47.) Those retail charge accounts, which Applicant or his spouse paid in person, remained current. (Tr. 66.)

In November 2012, the mortgage on property #1 was brought current. (GE 3.) Applicant's daughter, who works as a document control specialist for a pharmaceutical company (Tr. 41), resides in property #1's first floor unit with her husband. (Tr. 37.) She

[2] Applicant testified that he came to the United States at age 15 and that he graduated from high school here in 1971. (Tr. 85.) On his e-QIP, he indicated discrepantly that he attended and graduated from a high school in his native country. (GE 1.)

arranged for automatic payments to be deducted electronically for the mortgage from her parents' account. (Tr. 40, 68.) In May 2013, Applicant and his spouse brought the mortgage on their residence up-to-date. (GE 3.) They fell behind 30 days in January 2014, but have otherwise been making timely payments since May 2013. (GE 5.)

To renew his security clearance eligibility, Applicant completed and certified to the accuracy of an e-QIP on November 7, 2013. He responded "No" to financial record inquiries concerning any delinquency involving enforcement, including any judgments in the last seven years; any delinquency involving routine accounts in the last seven years; and any debts currently over 120 days delinquent. (GE 1.) Applicant completed the application at work with the assistance of another employee. (Tr. 93.) He also had some help from his daughter, but she provided the information only about family members. (Tr. 57-60, 97.) Applicant knew that his wages had been garnished once to collect the judgment and that he had some financial issues, but he was embarrassed to disclose them to another employee and did not think that it would matter to his security clearance eligibility. (AE G; Tr. 96.)

A check of Applicant's credit on December 14, 2013, showed outstanding collection balances of $7,838 (SOR 1.a, duplicated in SOR 1.d), $60 on a medical debt from 2011, and $9,238 (SOR 1.c) on the credit card account on which he was an authorized user. Applicant was making his mortgage payments on time. A $1,288 judgment (not alleged in SOR) had reportedly been filed against Applicant in May 2013. (GE 3.) Applicant's daughter had been managing the payments on some of his credit card accounts.[3] (Tr. 57.) She had been making the payments electronically on the account that went to judgment, but stopped because her parents had depleted their bank account trying to keep up with the mortgages and renovations to rental units to obtain new tenants. (Tr. 76-77.) After an initial garnishment of $260-$300 from his wages, Applicant contacted his daughter and asked her to take care of the debt expeditiously because it could affect his job. The judgment was satisfied in October 2013. (GE 5; Tr. 79-83, 89-90.)

On January 7, 2014, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) in part about his finances. He indicated that he was meeting all of his financial obligations on time. At the end of his interview, Applicant was confronted about the collection balances on his credit record. He acknowledged a small claims court judgment, which he attributed to his daughter's failure to pay the bill. Applicant explained that when the creditor began garnishing his wages, his daughter contacted the court and paid the debt in full. Applicant did not recognize the collection debt in SOR 1.a. He did not deny the $60 medical debt, but indicated that he was previously unaware of the debt. Applicant disputed that he owed the $9,238 debt in SOR 1.c. (GE 4.)

On May 5, 2014, the creditor in SOR 1.c offered three settlement options to Applicant's spouse to resolve her debt. She could settle the $9,238.80 balance by a lump-

[3] Applicant's daughter did not take over handling her parents' accounts until July 2014. (Tr. 40.) However, Applicant handled some bills for them at their request before then. When specifically asked to handle a debt, she would go online and pay it for them. (Tr.58.) She confirmed that she had not paid the bill on the account that went to judgment because her parents had depleted their account. (Tr. 64.)

sum payment of $2,309.70 on or before May 23, 2014; by two payments of $1,616.79 due May 23, 2014, and June 20, 2014; or by monthly payments toward the full balance. (AE E.) The creditor subsequently agreed to settle for the $2,309.70 lump sum if paid on or before June 27, 2014. (AE D.) The debt was paid by cashier's check on or before July 28, 2014. (AE C; Tr. 48.)

Around July 2014, Applicant's daughter began managing her parents' finances, including all their bill payments. (Tr. 39-40.) On July 13, 2014, Applicant's daughter paid $63.14 to resolve the medical debt in SOR 1.b for Applicant. (AE B.) She contacted the creditor identified in SOR 1.d and learned that the debt had been transferred to collection agency in SOR 1.a. (Tr. 33-35.) By July 29, 2014, the debt had been settled for less than $3,000. (AE A; Tr. 42.) Applicant and his spouse settled the debts in SOR 1.a (duplicated in SOR 1.d) and SOR 1.c with funds withdrawn from his 401(k). (Tr. 43.) In the six months preceding his security clearance hearing, Applicant made two 401(k) withdrawals, one of $10,000 and another for $5,000 to $10,000, to catch up on expenses, including property taxes for his three properties. (Tr. 44.) Applicant's daughter handled the payment of the taxes due in January 2014 and in July 2014 for her parents. (Tr. 45.)

Property #2 was fully rented out in 2014 until September 2014, when the tenant on the third floor moved out. In mid-November 2014, Applicant obtained a tenant for that unit at monthly rent of $775. The two rental units in property #1 have been rented except for April 2014 when the second floor was without a tenant. The rents for the five units vary from $775 to $925, depending on the unit. (Tr. 74-76.)

Applicant's hourly wage with the defense contractor is $27. He did not work overtime during the summer of 2014, but was scheduled to work 48 hours the week of his security clearance hearing. (Tr. 86-87.) As of mid-November 2014, Applicant had about $11,000 in checking account deposits and owed no delinquent debt. (GE 5; Tr. 99.)

Applicant's daughter has created a budget for her parents. The budget allots for a minimum of $500 each month to be placed in an account dedicated to the rental properties to cover any tenant vacancy in the future. (AE H.) Applicant and his spouse pay $1,793 on their primary mortgage, $569 on the home equity loan, and $1,321 on the mortgage for property #1.[4] (GE 5; AE H.) With their apartments fully rented as of December 1, 2014, they receive $5,125 in monthly rental income from the six units. (AE H.)

Applicant's daughter attests to her father being hardworking and dedicated to his family. She believes that he did not disclose any financial issues on his e-QIP because he is a proud man and was too embarrassed to reveal details of his finances to a coworker, who might pass the information on to others. She believes he lacked intent to conceal the information. She apologized for her father and indicated there would be no recurrence. (AE G.)

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[4] Applicant's credit report shows a monthly mortgage payment obligation of $875 for property #1. (GE 5.) Under his new budget, the payment is listed at $1,321.21. (AE H.)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered 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 the adjudicative process. The administrative judge's overall 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 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. 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 applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of Executive Order 10865 provides that 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 about financial considerations is articulated 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 evidence establishes that Applicant and his spouse had some difficulty meeting all their financial obligations in 2011 and 2012. Applicant's credit card debt of $7,348 (SOR 1.d) was sold to the collection agency in SOR 1.a in December 2012. As of December 2013, the unpaid balance was $7,838. When he responded to the SOR, Applicant indicated that the debt was settled in full in May 2013, but the document from the creditor to corroborate payment showing a zero balance is dated July 29, 2014. (AE A.) A $60 medical debt was placed for collection in April 2011 (SOR 1.b), although Applicant apparently just overlooked the debt. Additionally, a consumer credit card company obtained a judgment against Applicant for $1,288 in May 2013. The debt was not alleged in the SOR, presumably because it was paid in October 2013. The judgment and the chronically late payments on his mortgages in 2012 cannot provide additional bases for disqualification because they were not alleged. However, they show that Applicant's financial difficulties were not limited to the credit card account in SOR 1.a.[5] Two disqualifying conditions under AG ¶ 19 apply:

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

Applicant's spouse had a credit card debt of $8,300 placed for collection in August 2012. As of October 2013, she owed $9,238 on the debt (SOR 1.c). As an authorized user of the account, Applicant was not legally liable for the debt. There is a basis to apply mitigating condition AG ¶ 20(e) to that debt:

> (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

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[5] In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

> (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole person analysis under Directive Section 6.3.

(citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). The judgment debt in particular is relevant to determining whether a particular provision (AG ¶ 16(a)) of the personal conduct guideline is applicable.

> proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

However, the funds to repay the debt were likely to come from his household income, given Applicant and his spouse did not separate their finances.

Concerning the other mitigating conditions, AG ¶ 20(a), "the behavior happened so long ago, was so infrequent, or occurred under circumstances that it is unlikely to recur and does not cast doubt on the individual's current, reliability, or good judgment," applies only in that the fire at property #2 is a circumstance that is not likely to recur. Applicant incurred $5,000 in unexpected demolition costs. Only one of his three rental units at the property was occupied, but tenant vacancy is a circumstance that could well reoccur.

AG ¶ 20(b) is implicated where debts are incurred because of factors outside of one's control:

> (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.

The fire to the garage at property #2 is a circumstance covered by AG ¶ 20(b). However, while a tenant vacancy or rent delinquency may not be within Applicant's control, they are risks that Applicant accepts as a landlord. Furthermore, AG ¶ 20(b) does not mitigate Applicant's delay in addressing his credit card delinquency. Applicant knew by January 7, 2014, if not before then, about the collection debt in SOR 1.a on his credit record. There is no evidence that he made any payments on that debt before July 2014, even though his rental properties were fully occupied for all but one month during the first half of 2014.

Applicant satisfied the judgment debt in October 2013, albeit not before the creditor initiated garnishment. By late July 2014, Applicant had settled his $7,838 credit card debt in SOR 1.a for less than $3,000. His spouse settled her $9,238.80 delinquent credit card debt in SOR 1.c for 25% of the balance. The $60 medical debt (SOR 1.b) was paid in full on July 13, 2014. AG ¶ 20(c) and AG ¶ 20(d) apply because of these payments and the absence of any new delinquency:

> (c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and
>
> (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

The debts were settled with funds from Applicant's 401(k), which he could legally withdraw starting in June 2013.

Resolution of the debts alleviates the risk that Applicant would possibly engage in illegal acts to generate funds to pay debts. Concerns about Applicant's financial judgment and the risk of future financial problems are adequately mitigated by his present financial stability and by his daughter's oversight of his budget going forward. The budget prepared by his daughter provides for $500 to be set aside each month for any costs associated with the upkeep of the rental properties or the lack of income because of an unrented unit.

Guideline E, Personal Conduct

The security concerns for personal conduct are articulated 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.

Applicant did not disclose any financial delinquencies on his November 2013 e-QIP. When he was interviewed by the OPM investigator on January 7, 2014, Applicant indicated that his overall financial situation was okay and that he was meeting all his financial obligations on time. At the end of his interview, he was confronted with the adverse information on his credit report. Applicant agreed that a judgment had been issued against him in May 2013, although the debt had been resolved after the creditor attached his wages. Applicant denied any other issues regarding routine accounts. Applicant indicated that he did not recognize the debts in SOR 1.a and 1.c as being valid debts, and he had not known about the medical debt in collection (SOR 1.b).

When he answered the SOR, Applicant denied that he knowingly falsified his e-QIP concerning delinquency involving routine accounts, explaining that he knew that his credit report would be obtained and reviewed. He added that he would not intentionally jeopardize his employment by falsifying documentation.

The DOHA Appeal Board has 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 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)). The objective evidence of the collection debt in SOR 1.a and the judgment debt support a reasonable finding of intentional falsification. Applicant may not have recognized the name of the collection agency holding his MasterCard debt, but he knew he had fallen behind on some credit cards and that one credit card debt went to judgment. While his daughter had been handling that debt for him, she told him when she could no longer make payments. Applicant brought the judgment to her attention and told her to take care of it because it could affect his job. At his hearing, he admitted that his negative response to the routine delinquency inquiry was false, but that he did not think it would matter ("It would be false, but I probably didn't thought [sic] there was going to be—a huge mistake . . . ."). (Tr. 96.) Disqualifying condition AG ¶ 16(a) applies:

> (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.

Mitigating condition AG ¶ 17(a), "the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts," does not apply. While Applicant volunteered that his wages had been garnished one time to satisfy the judgment, his rectification was at the end of his interview and after confrontation.

AG ¶ 17(c), "the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment," cannot reasonably apply. The information omitted from his e-QIP was relevant and material to determining his suitability for access to classified information. While the SOR alleges only his false response to the routine delinquency inquiry, the evidence shows that he also falsely responded "No" to any delinquencies involving enforcement in the last seven years.

AG ¶ 17(d) allows for mitigation where an individual acknowledges the behavior, provided steps are taken to preclude a recurrence:

> (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.

When he answered the SOR, Applicant admitted that he provided incorrect information about his financial situation when he completed his e-QIP. However, he denies any intent to conceal in that he knew that his credit report would be obtained and reviewed. Presumably, Applicant would have disclosed his financial issues upfront to the investigator if he had no intent to mislead or conceal. Instead, he discussed the financial judgment only

at the end of his interview, after being confronted. At his hearing, Applicant testified somewhat discrepantly that he did not think his false responses to the debt inquiries would matter. He had someone in security asking him the questions, and he was embarrassed to admit to financial issues.[6] Applicant may have had some difficulty fully articulating his reasons for his false responses to the financial questions on his e-QIP. Even so, his reform is incomplete without an appreciation on his part of his obligation of full candor and persuasive evidence that he can be counted on to comply with that obligation. Whether from pride or a desire to protect his longtime employment with the defense contractor, Applicant acted out of self-interest. The personal conduct concerns are not fully mitigated.

Whole-Person Concept

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).[7]

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[6] Applicant's admission to the falsity of his e-QIP was not without some confrontation:

> Q. The judgment happened in May of 2013, and it was satisfied by October, so it had to have been satisfied before you filled this out in November. So can you explain why you didn't list that you had gone to court on this judgment, or that you had old bills, or that your pay had been garnished? Why didn't you list any of that here?
> A. I guess I just—I said no., I believe you. It had to be me.
> Q. I am sorry?
> A. It had to be me.
> Q. Okay. But can you explain why you would have answered no, if you knew that you had some old debts?
> A. I guess it's not easy to. I probably didn't even think that would matter, that we were going to get this far.
> Q. Were you embarrassed to reveal that you had debts?
> A. Could be, could be, yeah, could be, number one. I had a girl who works with me on security filling out the papers, asking me all kinds of questions. That's probably—I feel like to say no, instead of saying yes.
> Q. Okay. But you know that—you realize that if you knew that you had debts, then answering no was a false answer.
> A. It would be false, but I probably didn't thought [sic] there was going to be—a huge mistake, or huge—
> Q. Okay. Would you—is it true, though, that you knew you had debts, but you still answered no?
> A. I guess. I guess that's what happened at the time. (Tr. 95-96.)

[7] The factors under AG ¶ 2(a) are as follows:

> (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.

Applicant's financial problems were largely situational and not emblematic of his handling of his financial affairs generally. The risk of recurrence is minimized now that he is allocating funds in his monthly budget for repairs to his rental properties and for the possibility of a vacancy in one or more of his apartments.

Applicant's lack of candor about these financial difficulties when he applied to renew his security clearance eligibility raises concerns about his judgment, reliability, and trustworthiness. The concerns in this regard are magnified by the fact that he holds a secret-level security clearance. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990.). For the reasons noted above, I am required to consider, I am unable to conclude that it is clearly consistent with the national interest to continue Applicant's security clearance eligibility at this time.

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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	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.

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Elizabeth M. Matchinski
Administrative Judge