



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS and APPEALS**



In the matter of: )  
)  
) ISCR Case No. 14-02411  
)  
Applicant for Security Clearance )

**Appearances**

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

03/17/2015

**Decision**

HEINY, Claude R., Administrative Judge:

Applicant contests the Department of Defense’s (DoD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant had delinquent taxes, state tax liens, delinquent student loans, unpaid second mortgages, past-due accounts, and collection accounts. He has resolved a portion, but not enough of his delinquent debts. Financial considerations remain a security concern. He has resolved the foreign influence, foreign preference, and personal conduct security concerns. Clearance is denied.

**History of the Case**

Acting under the relevant Executive Order and DoD Directive,<sup>1</sup> on July 14, 2014, amended by SOR dated October 22, 2014, the DoD issued SORs detailing security concerns. DoD adjudicators could not find that it is clearly consistent with the national

<sup>1</sup> Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on September 1, 2006.

interest to grant or continue Applicant's security clearance. On July 28, 2014, Applicant answered the SOR and requested a hearing. On October 6, 2014, I was assigned the case. On October 6, 2013, the Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing for the hearing convened on October 22, 2014. I admitted Government's Exhibits (Ex) 1 through 6 and Applicant's Exhibits A through F, without objection. Applicant testified at the hearing. The record was held open to allow Applicant to submit additional information. Additional material (Ex. G and H) was submitted and admitted into the record without objection. There was no objection to the material that accompanied Applicant's SOR answer and that material was admitted into the record. (Tr. 20) On November 3, 2014, DOHA received the hearing transcript (Tr.).

### **Procedural**

The Guideline B, Foreign Influence, portion of the SOR alleged Applicant's mother, father, mother-in-law, four sisters, three brothers, and two step-sisters were citizens and residents of Ghana. Additionally, he has a sister who is a citizen of Ghana residing in the United States. He owns a \$30,000 house in Ghana and provided approximately \$9,000 quarterly to his family in Ghana. At the hearing, Department Counsel (DC) stated, "we are not filing administrative notice documents about Ghana. We're prepared to take the record as it is, and not proceed on the Guideline B issue in this case." (Tr. 18) DC went on to state,

As I just noted, the Government will not be proceeding on the Guideline B issues, because there's not a sufficient security concern under Guideline B, out of the simple fact that the Applicant has family members in Ghana. (Tr. 21)

As to the portion of the SOR alleging a personal conduct concern, on October 16, 2014, DC amended paragraphs 4.a and 4.b of the SOR by replacing those two allegations with a single allegation reflected as SOR 4.a. The original SOR 4.a. references "Section 17. Your Foreign Activities" in a December 2012 e-QIP, however, that section of the December 2014 Electronic Questionnaires for Investigations Processing (e-QIP) is entitled "Marital Status." Foreign activity was listed in section 17 of his September 2008 e-QIP. The amended SOR 4.a. incorrectly references section 17 as foreign activities, but foreign activities in that e-QIP are listed in Section 20A "Foreign Activities."

### **Findings of Fact**

In Applicant's Answer to the SOR, he denied one debt (SOR 1.s, \$4,266) and admitted the remaining student loans, charged-off accounts, and collection accounts. He admitted having a Ghana passport, having relatives in Ghana, and owning \$25,000 worth of property in Ghana. I incorporate Applicant's admissions as facts. After a thorough review of the pleadings, exhibits, and testimony, I make the following additional findings of fact:

Applicant is a 45-year-old financial instructor who has worked for a defense contractor since December 2012, and he is seeking a security clearance. (Tr. 46) From

September 2008 to September 2012, he honorably served in the U.S. Army. (Tr. 21) His Army military occupational specialty (MOS) was finance. (Tr. 71) His DD Form 214, Certificate of Release or Discharge from Active Duty, indicates he was a specialist (E-4) and had been awarded two Army Commendation Medals and the Iraq Campaign Medal with two campaign stars among other awards and ribbons. (SOR Answer, Tr. 48) The U.S. Department of Veteran's Affairs rates Applicant's disability at 100 per cent for neck, knee, back injury, and post-traumatic stress disorder (PTSD). (Tr. 113) He receives \$2,680 monthly in disability benefits. (Tr. 114)

When Applicant joined the U.S. Army, he used his Ghana passport. (Tr. 27) In October 2, 2009, he became a U.S. citizen. (SOR Answer, Tr. 27, 71) Applicant called no witnesses other than himself, and produced no work or character references. He is also an unpaid-pastor at his church. (Tr. 79)

In June 1969, Applicant was born Ghana. In 1998, he married in Ghana. In October 2009, he became a U.S. citizen. (Tr. 100) His parents and nine siblings are citizens and residents of Ghana. (Tr. 103) He has one sister living in the United States. (Tr. 103) He is currently married although three years ago his wife commenced divorce proceedings in Ghana. (Tr. 47, 80, 105) He last visited Ghana in July 2014, when he went there for divorce proceedings. (Tr. 103) He was also there in December 2013 related to the divorce proceedings. (Tr. 104) He owns a home worth approximately \$30,000 to \$35,000 in Ghana. (Tr. 106)

Applicant and his wife separated in in 2011. (Tr. 47) His wife was in the United States seven years before he joined her in 2005. (Tr. 48) While married, his wife worked as a health provider with an annual salary of approximately \$42,000. (Tr. 74, 75) She experienced periods of unemployment when she had no patients to care for. (Tr. 75) Applicant's annual salary is approximately \$58,000. (Tr. 79)

In 2005, at age 36, he came to the United States and went into real estate investment and eventually became a realtor. (Tr. 34, 52) He had four homes that went to foreclosure and a home owned by his wife also went to foreclosure. The forgiveness of debt on the foreclosures resulted in additional tax being owed by Applicant.

From 2005 through 2008, Applicant lived in State A. (Tr. 51) He purchased one home to live in (Property 1), one for \$268,000 to become a rental unit (Property 2), and the third, to fix up and resell (Property 3). (Tr. 34, 63) The monthly mortgage on the three properties was \$10,000. (Tr. 59) Two months after renting out one house (Property 2), the renter's husband lost his job and Applicant received no payment for three months. (Tr. 35, 56) The tenants were evicted. (Tr. 35)

In August 2007, Applicant moved out of the small home (Property 1) and into the vacated rental house (Property 2). (Tr. 35, 57) When he moved in, he brought the mortgage current on the property. (Tr. 57) He was unsuccessful in renting out the smaller place (Property 1) before it went to foreclosure. (Tr. 36) The foreclosure resolved the first mortgage. (Tr. 62)

In 2008, when he went to State B for Army basic training, his wife moved into a house (Property 4) she owned before 2005 when Applicant joined her in the United States. (Tr. 55, 58) She stopped making mortgage payments on Property 2. (Tr. 51) While in basic training, he sent his wife money to assist with the mortgage on Property 2. (Tr. 74) When Applicant returned from basic training, he learned his wife had vacated Property 2, and it was in foreclosure. (Tr. 36, 74)

Property 2 was sold during the foreclosure process at a price sufficient to cover the first mortgage, but not the second mortgage. (Tr. 37, 61) Following the foreclosure, \$72,000 is yet owed on the second mortgage. The loan service wants full payment on the note. (Tr. 60) He would like to negotiate a lower amount, but the loan service is unwilling to negotiate. (Tr. 60)

At foreclosure, Property 1 had a fair market value of \$172,000 and had a \$240,000 first mortgage and a \$50,000 second mortgage. (Tr. 37, 38) In November 2007, the mortgage company canceled the debt on the house and sent Applicant a Form 1099-C, Cancellation of Debt. (Ex. C)

The house (Property 3) purchased to fix up and resell suffered severe water damage when thieves stole the copper pipe in the home and left the water running. (Tr. 117) The water filled the basement to the point the water started coming out the basement window. (Tr. 117) Following foreclosure, the mortgage company sent Applicant a Form 1099 C. That \$199,218 was included on his 2008 Federal income tax return. (SOR Answer, Tr. 65) Applicant's wife's house (Property 4) went to foreclosure when his wife moved to join him at his military location. (Tr. 38)

Applicant and his wife owned another house (Property 5) that was burglarized. (Tr. 109) He was using credit cards to buy material for the house. (Tr. 109) This house went to foreclosure.

In March 2014, Applicant entered into an agreement with the IRS, for tax years 2006 and 2013, allowing them to deduct \$842 on the first of each month from his checking account. (Tr. 40, 76, SOR Answer) He currently owes the IRS approximately \$35,000 for back taxes. (Tr. 76) In June 2014, that amount increased to \$1,000 monthly. (Tr. 40, 77) He documented monthly payments from March through September 2014. (Ex. D, H, Tr. 39)

Applicant owes the state approximately \$20,000. (Tr. 78) He is still waiting for the state taxing authority to inform him what he owes in order to establish a repayment agreement. (Tr. 42, 78) At the hearing, he indicated his last contact with the state tax authority was on October 2, 2014. (Tr. 43) Following the hearing, he presented a copy of an \$800 payment to the state taxing authority dated November 24, 2014. No evidence of a repayment agreement was received.

In August 2008, Applicant completed a Standard Form (SF) 86, Questionnaire for National Security Positions and submitted it to his recruiter. (Ex. F, Tr. 32) The remaining portion of the SF 86 was completed electronically. He asserts he never saw the completed document until presented by DC in discovery. (Tr. 32) Applicant was one

of a group completing their SF 86s. (Tr. 121) The SF 86 was to contain what he had electronically sent to the recruiter. (Tr. 123) When called, he was asked a few questions about the completed form, asked to verify the information, to check his name, and sign the form. (Tr. 122) This was all done on the computer. No hard copy of the form was provided. (Tr. 122) The 2008 SF 86 was the basis of the original SOR 4.a and 4.b prior to the SOR being amended. The Amended SOR only references the 2012 e-QIP.

In Applicant's December 2012 e-QIP, Section 20A 1 Foreign Activities, he indicated he had a home in a foreign country worth \$25,000. (Ex. 1) He did answer "no" to the question that asked if he ever owned, anticipated owing, or planned to purchase real estate in a foreign country. In Section 10, Dual/Multiple Citizenship Information, he answered "no" when asked if he had ever been issued a foreign passport. At his December 2012 OPM interview, Applicant had his Ghana passport with him. (SOR Answer) He presented it to the interviewing agent believing it would be cancelled. However, the agent took down some information before returning the passport to him. In responding to the SOR, Applicant attempted to surrender his passport by sending it along with his SOR answer. (Tr. 81) He was informed that the DoD was not allowed to accept his passport. (Tr. 82) At the hearing, his passport had yet to be returned. Following the hearing, a letter dated October 27, 2014 stated Applicant had relinquished his passport. (Ex. G)

In December 2012, Applicant executed his e-QIP. At that time, he had his Ghana passport with him and submitted to the interviewing agent. (SOR Answer) The agent returned his passport to him.

From December 2005 through August 2008, Applicant obtained student loans for education. In June 2009, he received his bachelor's degree in accounting and business administration. (Tr. 43, 46) He returned to school from June 2009 through October 2009 and in June 2010, obtained his master's degree in accounting and financial management. (Tr. 44, 46) Repayment on his student loans, which total \$60,000, is in abeyance since he is still taking on-line classes. (Tr. 44, 45, 120) The deferment ends six months after he leaves school. Since obtaining the loans, he has made interest only payments on some of the loans. (Tr. 46)

Applicant owed \$3,986 (SOR 1.q) on a home improvement store account. Part of it was paid and \$1,447 was forgiven resulting in a Form 1099 C, Cancellation of Debt. (Ex. B, Tr. 64) His January 2013 credit bureau report (CBR) lists a \$4,200 collection account (SOR 1.s). (Ex. 2) The debt remains unpaid, and Applicant is unsure about the nature of this debt. (Tr. 67) He had no knowledge as to the nature of this debt when questioned about it during his January 2013 Personal Subject Interview (PSI). (Ex. 3) Activity on the account occurred in July 2007. (Ex. 3, Tr. 68)

Applicant is current on his rent and has two vehicles: a 2000 Toyota and a 2004 Toyota. (Tr. 107) As of October 2014, his vehicle note had been paid in full. (Ex. J, Tr. 115) He has a bank account in Ghana, which he does not use and has \$700 in three accounts in the United States. (Tr. 107) He has a balance of approximately \$4,000 owed on three credit cards. (Tr. 108) He has approximately \$15,000 in a 401(k) retirement fund. (Tr. 112)

Applicant submitted a monthly budget showing income of \$4,055 and expenses of \$4,217, which resulted in a negative net income of \$161. (Ex. D, Tr. 112) However, when questioned further about this, he explained that the \$1,375 salary was for two weeks and not for a month. With the correction, his net monthly income would be \$1,214 plus the \$800 car note is now paid resulting in a net monthly income of more than \$2,000.

## **Policies**

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 must 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 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 interests of 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order (EO) 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 *a/so* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

Adjudicative Guideline (AG) ¶ 18 articulates the security concerns 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.

Additionally, an individual who is financially irresponsible may also be irresponsible, unconcerned, negligent, or careless in properly handling and safeguarding classified information. Behaving responsibly or irresponsibly in one aspect of life provides an indication of how a person may behave in other aspects of life.

A person's relationship with his creditors is a private matter until evidence is uncovered demonstrating an inability or unwillingness to repay debts as agreed. Absent substantial evidence of extenuating or mitigating circumstances, an applicant with a history of serious or recurring financial difficulties is in a position of risk that is inconsistent with holding a security clearance. An applicant is not required to be debt free, but is required to manage his finances to meet his financial obligations.

Applicant has a history of financial problems. Applicant and his wife had five houses that went to foreclosure. He owed the IRS approximately \$40,000 and the state \$20,000 for delinquent taxes. He owes \$134,000 for unpaid second mortgages and \$4,000 on a delinquent collection account. Disqualifying Conditions AG ¶ 19(a), “inability or unwillingness to satisfy debts” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply.

Five Financial Considerations 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; 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 became a real estate investor purchasing some homes to live in, one to become a rental, and one to fix up and resell. One place was vandalized when thieves stole the copper pipe from the house and left the water running. Another house was also burglarized. These are events beyond his control, but having insurance on his investment would have lessened the financial burden. He and his wife had five properties that went to foreclosure. The foreclosures eliminated the first mortgages on two of the homes (SOR 1.o, \$252,000 and SOR 1.p, \$268,000). However, the elimination of the debt resulted in additional federal income taxes (SOR 1.a, \$40,665) and state income tax (SOR 1.b, \$9,936 and SOR 1.c, \$11,337). He has reached a repayment plan with the IRS whereby he pays \$1,000 monthly to the IRS. He has yet to reach a repayment plan with the state taxing authority. Following the hearing, he submitted proof he made an \$800 payment to the state, but this is insufficient to show an agreement has been reached concerning the \$20,000 owed the state. I find for him as to the IRS debt and against him as to the state tax debt.

Applicant still owes the second mortgage on two properties (SOR 1.m, \$72,317 and SOR 1.n, \$52,772). He would like to work out a repayment arrangement with the holder of the mortgage, but they are unwilling to lessen their demand for full payment. I find against him as to these delinquent debts.

Applicant owes approximately \$60,000 in student loans, which are currently in deferment status. He paid his charged-off electric bill (SOR 1.d). He settled one \$4,000 collection account (SOR 1.q) for \$1,400 and had a \$10,000 debt (SOR 1.r) forgiven. The remaining \$4,200 debt (SOR 1.s) remains unpaid. During his January 2013 PSI, 22 months earlier, he was questioned about this debt. I find for him as to his student loans, the electric bill, and the collection account, but against him as to the \$4,200 debt on which he has made no payment.

Under AG ¶ 20(a), Applicant's financial problems occurred more than five years ago, but some of the delinquent debt remains unpaid. Additionally, he had five properties that went to foreclosure. AG ¶ 20(a) has only limited application. Applicant is currently separated with his wife seeking divorce. This is a factor beyond his control, but



his financial problems started before he separated from his wife. AG ¶ 20(b) has minimal application.

Under AG ¶ 20(c) and ¶ 20(d), Applicant is paying, has paid, or had the debt forgiven on six of the delinquent accounts. These six debts represent approximately \$575,000 of the delinquent SOR debt. AG ¶ 20(d) applies to these debts. Five delinquent debts, which total approximately \$150,000, have yet to be addressed. A single payment of \$800 to the state taxing authority is insufficient to establish this is a good-faith effort to repay this debt when there is no showing a repayment agreement has been reached.

### **Guideline C, Foreign Preference**

AG ¶ 9 describes the foreign preference security concern stating, “when an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.”

AG ¶ 10 describes conditions that could raise a security concern and may be disqualifying in Applicant’s case:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to:

(1) possession of a current foreign passport;

Applicant was born in Ghana and entered the U.S. Army with his Ghana passport. When he learned possession of the passport was a problem, he attempted to surrender it. At the time of hearing, the passport was lost in the mail. Following the hearing, he provided proof that he had relinquished the passport. AG ¶ 11(e) “the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated,” applies. I find for Applicant as to Guideline C.

### **Guideline B, Foreign Influence**

AG ¶ 6 expresses the security concern related to foreign influence:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

The following disqualifying conditions under AG ¶ 7 are relevant:

(a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information.

Family ties with a resident or citizen of a foreign country do not automatically disqualify an applicant from obtaining a security clearance; such ties are only disqualifying if they create a heightened risk of foreign exploitation or a potential conflict of interest. Applicant's parents and siblings are citizens and residents of Ghana. He has visited Ghana in recent years in regards to obtaining a divorce. He also owns a home there and sent money to his relatives in Ghana. However, the Government chose not to proceed on the Guideline B allegations. I find for Applicant as to Guideline B.

### **Guideline E, Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to personal conduct, which is conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The government has not shown Applicant's answers to questions 17 a. and 17 d. in his December 2012 e-QIP were inaccurate. Section 17 relates to marital status and not to foreign activity. Questions 17 a. and 17 d. on his 2008 e-QIP related to foreign activity, but the amended SOR does not reference the 2008 e-QIP only the 2012 e-QIP. His 2012 e-QIP does not contain a question asking if he had an active passport issued by a foreign government during the prior seven years.

Applicant answered "no" to the question in Section 10 of his December 2012 e-QIP, which asked if he had been issued a foreign passport. During the December 2012 interview, when he executed his e-QIP, he provided the agent with his Ghana passport. The e-QIP might have been inaccurate, but the Government was certainly on notice Applicant had a valid foreign passport. It does not appear he was attempting to hide his passport.

In Applicant's December 2012 e-QIP, he answered "no" when asked if ever owned, anticipated owing, or planned to purchase real estate in a foreign country. However, he had already indicated in a previous question on the same questionnaire that he owned a house worth \$25,000 in a foreign country. By listing his ownership of the home, it appears he was not attempting to hide that ownership.

The Applicant denied any intentional falsification. Deliberate omission, concealment, or falsification of a material fact in any written document or oral statement to the Government, when applying for a security clearance, is a security concern. But every inaccurate statement is not a falsification. A falsification must be deliberate and material. It is deliberate if it is done knowingly and willfully.

In December 2012, when Applicant executed his e-QIP, he had his foreign passport with him and presented it to the agent. When he completed his 2012 e-QIP, he listed his ownership of the house in Ghana. Having observed Applicant's demeanor and listened to his testimony, I find his answers were not deliberate omissions, concealments, or falsifications. I find for him as to Guideline E.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered Applicant's service to the U.S. military in hostile territory and his military service warranting the issuance of two Army Commendation Medals. Applicant has surrendered his foreign passport and the Government has indicated his foreign relatives are not of security concern. When he completed his 2012 e-QIP some of his answers were incorrect, but he did list owing a home in Ghana and did bring his foreign passport with him during the interview concerning his e-QIP. He had hoped to surrender his passport on that occasion. The foreign influence, foreign preference, and personal conduct are not a security concern.

The downturn in the real estate market in recent years can explain some of Applicant's financial difficulties, but is insufficient to explain five properties going to foreclosure. His current divorce adds to his financial problems, but his financial problems started well before his wife filed for divorce. He has addressed a number of his delinquent debts. However, he has yet to reach agreement on the repayment on the

\$20,000 of state tax liens, \$125,000 in delinquent mortgages following the foreclosure on two properties, and a \$4,200 unpaid collection account.

The concept of “meaningful track record” includes evidence of actual debt reduction through payment of debts. However, an applicant is not required to establish that he has paid off each and every debt listed in the SOR. All that is required is for him to demonstrate he has established a plan to resolve his delinquent debt and has taken significant action to implement that plan. I must reasonably consider the entirety of Applicant’s financial situation and his actions in evaluating the extent to which that plan is credible and realistic. There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan may provide for payment on such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

The issue is not simply whether all Applicant’s debts have been paid – they have not – it is whether his financial circumstances raise concerns about his fitness to hold a security clearance. (See AG ¶ 2(a)(1).) Overall, the record evidence leaves me with questions and doubts about Applicant’s eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the security concerns arising from his financial considerations.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of true reform and rehabilitation necessary to justify the award of a security clearance. The awarding of a security clearance is not a once in a lifetime occurrence, but is based on applying the factors, both disqualifying and mitigating, to the evidence presented. The state tax liens, second mortgages, and the other collection account have yet to be addressed. Under Applicant’s current circumstances, a clearance is not warranted. In the future, if Applicant has paid his delinquent obligations, established compliance with a repayment plan, or otherwise substantially addressed his past-due obligations, he may well demonstrate persuasive evidence of his security worthiness. However, a clearance at this time is not warranted.

### **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, Financial Considerations:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b and 1.c:	Against Applicant
Subparagraph 1.d – 1.l:	For Applicant
Subparagraphs 1.m and 1.n:	Against Applicant
Subparagraph 1.o – 1.r:	For Applicant
Subparagraph 1.s:	For Applicant
Paragraph 2, Foreign Preference:	FOR APPLICANT

Subparagraph 2.a:	For Applicant
Paragraph 3, Foreign Influence:	FOR APPLICANT
Subparagraphs 3.a – 3.f:	For Applicant
Paragraph 4, Personal Conduct:	FOR APPLICANT
Subparagraph 4.a:	For Applicant

**Conclusion**

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

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CLAUDE R. HEINY II  
Administrative Judge