

DATE: June 30, 2006

In Re:

SSN: -----

Applicant for Security Clearance

CR Case No. 04-12653

DECISION OF ADMINISTRATIVE JUDGE

JOAN CATON ANTHONY

APPEARANCES

FOR GOVERNMENT

Daniel Crowley, Esq., Department Counsel

James B. Norman, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has a history of unresolved financial delinquencies. He has been fired from jobs by six employers. He failed to list previous terminations on a job application, and he falsified his security clearance application by omitting two terminations, in response to Question 20, and by omitting relevant and material information about his financial delinquencies, in response to Questions 38 and 39. Applicant failed to file his federal and State income tax returns for tax years 2001 and 2002. Applicant failed to mitigate security concerns under Guidelines F, E, and J. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On October 31, 2005, under the applicable Executive Order⁽¹⁾ and Department of Defense Directive,⁽²⁾ DOHA issued a Statement of Reasons (SOR), detailing the basis for its decision-security concerns raised under Guideline F (Financial Considerations), Guideline E (Personal Conduct), and Guideline J (Criminal Conduct) of the Directive. Applicant answered the SOR in writing on December 30, 2005, and elected to have a hearing before an administrative judge. The case was assigned to me March 31, 2006. I set a hearing for April 26, 2006. Applicant requested a change in date to accommodate his medical treatments, and, on April 19, 2006, DOHA issued an amended notice of hearing, setting Applicant's hearing for May 4, 2006. Applicant's hearing was convened on May 4, 2006, as scheduled, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government called no witnesses and submitted seventeen exhibits for identification and admission to the record. The Government's documents were identified as Exhibits (Ex.) 1 through 17 and were admitted into evidence without objection. The Government submitted one document, identified as Government Document I for Administrative Notice, which was admitted to the record without objection. Applicant called no witnesses and submitted no exhibits. At the conclusion of the hearing, I left the administrative record open until close of business, May 11, 2006, so Applicant could, if he wished, submit additional documents to support his claims he paid his federal and State taxes for tax years

2001 and 2002. Applicant submitted no post-hearing documents and provided no explanation for failing to do so. On May 11, 2006, DOHA received the transcript (Tr.) of the proceeding.

FINDINGS OF FACT

The SOR contains fourteen allegations of disqualifying conduct under Guideline F, Financial Considerations, eleven allegations of disqualifying conduct under Guideline E, Personal Conduct, and two allegations of disqualifying conduct under Guideline J, Criminal Conduct. In his answer to the SOR, Applicant admitted thirteen of the allegations under Guideline F. He denied one Guideline F allegation. He admitted the eleven allegations under Guideline E, and he admitted the two allegations under Guideline J. Applicant's admissions are incorporated as findings of fact.

Applicant is 50 years old and was employed as a document control specialist by a federal contractor from March 2002 to November 2005, when he was let go because he did not have a security clearance. At the time of his hearing, Applicant was working part-time as a security guard at a federal agency. (Ex. 1; Tr. 58; 65.)

Applicant, a high school graduate, attended business college for about one year. (Ex. 1; Tr. 61.) He was married in 1993 and, in 2000, he and his wife separated. They remain separated. Applicant has two children from his marriage to his wife, two children from a previous relationship, two stepchildren, and one adopted child. (Ex. 14 at 2; Tr. 61-62.) He voluntarily pays his wife \$390 in child support each month. (Tr. 63.)

Applicant has suffered from kidney disease since about July 1999. At the time of his hearing, he was receiving kidney dialysis treatments three times a week. (Ex. 14 at 10; Tr. 64.)

Applicant has a history of financial delinquencies, some of which date back to the mid 1990s. (Ex. 3; Ex. 14 at 18.) He attributed his financial problems to his separation from his wife and the loss of her income, his child support payments, and, in 1998, assuming ownership of his family's home and the responsibility for paying \$2,000 a year in property taxes. (Ex. 14 at 3; 6) In about May 1998, Applicant filed for Chapter 13 bankruptcy. The case was dismissed in December 1998 when Applicant failed to confirm a bankruptcy plan. (Ex. 4; Ex. 14 at 5.) In an interview with a special agent of the Defense Security Service in October 2003, Applicant said he was working to identify his creditors and, through his debt consolidation program, would begin paying his creditors \$150 a month not later than November 1, 2003. (Ex. 14 at 7.)

In his answer to the SOR, Applicant admitted he owed creditors for 12 accounts placed in collection. The delinquent accounts totaled approximately \$6,582. At his hearing, Applicant said he had paid the account alleged at SOR 1.b., but failed to produce proof of payment. (Tr. 39.) He also said he did not recognize the debt alleged at SOR 1.e., and while it was suggested that the debts alleged at 1.e. and 1.f. of the SOR might be the same debt, Applicant was unable to provide evidence to substantiate this. (Tr. 45-46.) Applicant said he planned to liquidate \$4,000 in his 401(k) plan and pay some of the delinquent debts within two weeks. He also said he would pay other debts through his debt consolidation program. (Tr. 40-49; 50; 57.) Applicant has worked with several credit counseling organizations, although he was confused about their names and indicated some had not provided him with good service. (Tr. 39-43.)

In his answer to the SOR, Applicant admitted being fired from Employer A in May 1985 for accumulating too many parking tickets. He admitted being fired from Employer B in May 1988 after a government agency stated he had falsified a time card. He admitted being fired from Employer C in March 2002 for tardiness, un-excused absences, and false statements. He admitted being fired in June 2001 from Employer D. He admitted being fired from Employer E in October 2000 for failure to perform duties. He admitted being fired by Employer F in December 2000.

At his hearing, Applicant disputed the circumstances of his firings by Employers B, C, D, E, and F. (Tr. 51-55.) Business records from Employers C and F recite that Applicant was late for work, falsified his arrival time at work, and failed to report for work. (Ex. 6; Ex. 7.)

In November 2000, Applicant applied for a position with Employer F and completed an employment application. He was asked to supply his employment record, beginning with his most recent employment and working backward to show his employment for the ten previous years. Applicant listed employment with Employer E but did not list he had been fired by Employer E. He listed an employer for whom he had worked from 1988 to 1966 and stated he had been

fired by that employer. The employer was not identified in the SOR. (SOR; Ex. 5.)

In September 2002, Applicant completed and signed a security clearance application. (SF-86) Question 20 on the SF-86 asks an applicant if he has been fired from a job in the past seven years; quit a job after being told he would be fired; left a job by mutual agreement following allegations of misconduct; left a job by mutual agreement following allegations of unsatisfactory performance; or left a job for other reasons under unfavorable circumstances. In response to Question 20, Applicant answered "yes" and stated he had been fired by Employers C and E. He did not provide the whole truth about the nature of his termination by Employer C. (Ex. 7.) He did not state he had been fired by Employer D in June 2001 or by Employer F in December 2000. (Ex. 2 at 6.)

Question 38 on the SF-86 asks, in pertinent part: "In the last 7 years, have you been over 180 days delinquent on any debt(s)?" Applicant answered "yes" to Question 38 and listed two debts delinquent over 180 days. He failed to list a bad debt for \$949, dating to August 2001, and a delinquent debt for \$2,661, dating to July 2001. Both debts he did not list were posted on Applicant's credit report for September 13, 2002. (Ex. 8.) Question 39 on the SF-86 asks, in pertinent part: "Are you currently over 90 days delinquent on any debt(s)?" Applicant answered "yes" to Question 39 and listed an installment debt of \$80. (Ex. 2.) He did not list the two debts he failed to list in his answer to Question 38 and he failed to list a debt for \$348 to a medical provider, delinquent since September 1999. (Ex. 11; Ex. 14 at 12.)

Applicant signed and dated the following certification after he completed his SF-86:

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both (See section 1001 of title 18, United States Code.)

Applicant did not timely file his Federal and State taxes for tax years 2001 and 2002. He stated he had filed his delinquent taxes "last year," but he failed to provide evidence of payment, even though the hearing record was left open for him to do so. (Tr. 56-57; 81.) I take administrative notice that 26 U.S.C. § 7203 provides that if an individual willfully fails to file a federal tax return, supply information, or pay a required tax, he shall, in addition to other penalties, be guilty of a misdemeanor and, if convicted, shall be fined \$25,000 or imprisoned for more than one year. Additionally, the State statute offered for administrative notice required that State taxes be timely filed, but did not cite a penalty for failure to do so. (Government Document I for Administrative Notice.)

POLICIES

"[No one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has restricted eligibility for access to classified information to United States citizens "whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." Exec. Or. 12968, *Access to Classified Information* § 3.1(b) (Aug. 4, 1995). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.

Enclosure 2 of the Directive sets forth personal security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that disqualify, or may disqualify, the applicant from being eligible for access to classified information. *See Egan*, 484 U.S. at 531. The Directive presumes a nexus or rational connection between proven conduct under any of

the disqualifying conditions listed in the guidelines and an applicant's security suitability. *See* ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

CONCLUSIONS

Guideline F-Financial Considerations

The Government's concern under Guideline F, Financial Considerations, is that individuals who are financially overextended and unable or unwilling to pay their just debts may try to generate funds by engaging in illegal acts. Applicant has a history of not meeting his financial obligations, and his financial history suggests an inability or unwillingness to satisfy his debts, conditions which raise security concerns under subparagraphs E2.A6.1.2.1. and E2.A6.1.2.3. of Guideline F. DOHA's Appeal Board has concluded that "[a] person who is unwilling to fulfill his legal obligations does not demonstrate the high degree of good judgment and reliability required of persons granted access to classified information." ISCR Case No. 98-0810 at 4 (App. Bd. June 8, 2000).

In the SOR, DOHA alleged that Applicant was indebted to creditors for 13 accounts placed for collection: (¶1.a. for \$706);(¶1.b. for \$165); (¶ 1.c. for \$769); (¶ 1.d. for \$180); (¶ 1.e for \$949); (¶ 1.f for \$868.);(¶ 1.g. for \$820); (¶ 1.h. for \$234); (¶ 1.i. for \$297); (¶1.j. for \$787); (¶1.k. for \$364)); (¶ 1.l. for \$278); and (¶ 1.m. for \$330). DOHA also alleged that the debts alleged at ¶¶ 1.a., 1.b., 1.c., 1.d., and 1.e. had not been paid as of July 11, 2005, and the debts alleged at ¶¶ 1.f., 1.g., 1.h., 1.i., 1.j., 1.k., 1.l., and 1.m. had not been paid as of September 30, 2003. DOHA further alleged that Applicant had filed for Chapter 13 bankruptcy in May 1998 and his case had been dismissed by the bankruptcy court in December 1998 for failure to confirm a bankruptcy plan. (¶ 1.n.) An applicant who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1.

The Government has established, through Applicant's admissions and the record evidence, a *prima facie* case that Applicant is financially overextended. Applicant provided no persuasive evidence to rebut the financial concerns specified in the SOR and identified as disqualifying conditions under ¶¶ E2.A6.1.2.1. and E2.A6.1.2.3. of Guideline F. (3)

We turn to a review of the several conditions that could mitigate the security concerns raised by Applicant's financial delinquencies. Applicant's acknowledged delinquencies date to at least 1998. His financial delinquencies involve long-standing debts, and his inability or unwillingness to pay them is recent. Thus, neither mitigating condition E2.A.6.1.3.1. nor mitigating condition E2.A6.1.3.2. applies. (4)

Applicant attributed his financial problems to the end of his marriage and the loss of his wife's income, his child support payments, and the responsibilities of home ownership. He has been separated from his wife since 2000, and he has had chronic health problems also since about 2000.

If a person's financial delinquencies were largely caused by conditions beyond his or her control, then mitigating condition E2.A6.1.3.3 might apply. Applicant's 2000 separation and his chronic health condition, while unfortunate, do not explain or mitigate his long-standing financial difficulties and his unwillingness to approach his creditors and arrange payment or settlement. Additionally, Applicant's responsibilities as a home owner and parent were voluntary. His financial problems do not appear to be the result of conditions beyond his control. Thus, mitigating condition E2.A6.1.3.3. does not apply

While Applicant has sought financial counseling, he has not presented clear indications that his financial problems are being resolved or are under control. Therefore, mitigating condition E2.A6.1.3.4. is inapplicable. At his hearing, he stated he was borrowing from his 401(k) account to pay his delinquencies and would pay the debts in about two weeks. In his signed statements to a special agent of the Defense Security Service, he asserted in November 2003 that he would pay his debts at some time in the future. DOHA's Appeal Board has stated that promises to pay one's debts in the future

are not a substitute for a clear record of debts actually paid. ISCR Case No. 98-0188 at 3 (App. Bd. Apr. 29, 1999) In determining an individual's security worthiness, the Government cannot rely on the possibility that an applicant might resolve his or her outstanding debts at some future date. ISCR Case No. 98-0614 at 5 (App. Bd. Jul. 12, 1999). I conclude that Applicant's promises do not reflect a good-faith effort to repay his long-standing creditors or to otherwise resolve his debts, and accordingly, mitigating condition E2.A6.1.3.6. does not apply. The Guideline F allegations in the SOR are concluded against the Applicant.

Guideline E - Personal Conduct

In the SOR, DOHA alleged Applicant was fired by six employers (¶¶ 2.a. through 2.f.); deliberately falsified his employment history on a job application he filled out on November 12, 2000, by failing to list his job terminations recited at ¶¶ 2.a., 2.b., 2.d., and 2.e. of the SOR⁽⁵⁾ (¶ 2.g); falsified material facts on the SF-86 he executed September 10, 2002 by failing to list, in response to Question 20, his job terminations set forth in ¶¶ 2.d. and 2.f. of the SOR (¶ 2.h); falsified material facts in his answers to Question 38 on the SF-86 he executed on September 10, 2002 by deliberately failing to list an account in the approximate amount of \$2,661 which had been over 180 days overdue in the last seven years (¶ 2. i.(1)) and an account in the approximate amount of \$949 which had also been over 180 days overdue in the last seven years (¶ 2. I. (2)); and falsified material facts in his response to Question 39 on the SF-86 he executed September 10, 2002 by failing to list debts cited at ¶¶ 1.i, 2.i.(1) and 2.i.(2) as currently delinquent over 90 days (¶ 2.j.)

In his answer to the SOR, Applicant admitted all of the Guideline E allegations. His deliberate misrepresentations cause serious security concerns. Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that an applicant may not properly safeguard classified information. Directive ¶ E2.A5.1.1.

An applicant's responsibility to provide truthful and complete responses to questions on employment applications and on his SF-86 cannot be set aside or ignored. The SOR alleged at ¶ 2.g. that Applicant falsified his November 12, 2000, employment application by omitting employment terminations set forth in ¶¶ 2.a, 2.b., 2.d., and 2.e. of the SOR. The employment application asked applicants to list their employment, including reasons for leaving, for the last ten years. Applicant did not list the terminations alleged at ¶¶ 2.a. and 2.b, which occurred in 1985 and 1988 respectively, and covered a period of time not requested by the application. Applicant also did not list the termination alleged at ¶ 2.d., which occurred in June 2001, after he had completed the employment application. Applicant also did not list his termination from Employer E, which occurred approximately one month before he completed the employment application. Accordingly, I conclude Applicant deliberately omitted only the termination alleged at ¶ 2.e. when he falsified his employment application, as alleged at SOR ¶ 2.g.

On September 13, 2002, Applicant signed his SF 86 and attested to the truthfulness, completeness, and correctness of his statements. He concealed information that increased his vulnerability to coercion, exploitation, or duress. Reliable, unfavorable information about Applicant's conduct was provided from the business records of his former employers. His omissions and falsifications occurred on his employment application, a document submitted to determine his employment qualifications, and on his SF-86, a document submitted to determine his security clearance eligibility and trustworthiness. Applicant's falsifications reveal a pattern of dishonesty or rule violations.

Applicant's falsification of his employment application and his deliberate omissions in his answers to Questions 20,⁽⁶⁾ 38, and 39 on his SF-86 bring his conduct under disqualifying conditions E2.A5.1.2.1, E2.A5.1.2.2., E2.A5.1.2.4., and E2.A5.1.2.5. of the Personal Conduct Guideline.⁽⁷⁾ His failure to provide complete, truthful, and unambiguous answers to Questions 20, 38, and 39 was pertinent to a determination of his judgment, trustworthiness and reliability. His failure to report he was fired for cause from six jobs and his failure to acknowledge responsibility for debts delinquent for more than 180 days in the past seven years and currently delinquent over 90 days raise serious questions about his security worthiness.

The information provided by Applicant's former employers was substantiated and pertinent to a determination of his judgment, trustworthiness, and reliability. His falsifications were recent and not isolated incidents, and Applicant did not subsequently provide correct information voluntarily. He did not make prompt, good-faith efforts to correct the falsifications before being confronted with the facts, and he has not taken positive steps to significantly reduce or

eliminate his vulnerability to coercion, exploitation, or duress. Thus, mitigating conditions E2.A5.1.3.1., E2.A5.1.3.2., E2.A5.1.3.3., and E2.A5.1.3.5. do not apply. Applicant's deliberate misrepresentations cause serious security concerns.

With respect to the Guideline E conduct alleged in the SOR, the Government has established its case. Accordingly, the allegations in ¶¶ 2.a., 2.b., 2.c., 2.d., 2.e., 2.f., 2.g., 2.h., 2.i.(1); 2.i. (2), and 2.j. of the SOR are concluded against the Applicant.

Guideline J - Criminal Conduct

In the SOR, DOHA alleged Applicant willfully failed to file his federal income tax returns for Tax Year 2001 and Tax Year 2002, in violation of 26 U.S.C. § 7203, and the delinquent federal tax returns had not been filed as of November 20, 2003. (¶ 3.a.). DOHA further alleged Applicant had willfully failed to file his State tax returns for Tax Year 2001 and Tax Year 2002, in violation of the State tax code of his State of residence⁽⁸⁾, and the delinquent State tax returns had not been filed as of November 20, 2003. (¶ 3.b.) Pursuant to 26 U.S.C. § 7203, it is a misdemeanor crime to willfully fail to timely file a federal tax return.

Applicant admitted the conduct alleged by the Government in ¶ 3.a. and ¶ 3.b. of the SOR. He stated the returns had been filed "last year," but he did not produce evidence that the returns had been filed.

This analysis addresses the SOR allegation that Applicant's failure to file his federal income taxes in Tax Years 2001 and 2002 raises security concerns under Guideline J, Criminal Conduct, of the Directive. Applicant's alleged and admitted willful failure to pay his federal taxes for two tax years would subject him to a misdemeanor penalty if he were convicted. A history or pattern of criminal activity raises doubts about a person's judgment, reliability, and trustworthiness. (¶ E2.A10.1.1) Disqualifying conditions include allegations or admissions of criminal conduct, regardless of whether the person was formally charged (¶ E2.A10.1.2.1.), and a single serious crime or multiple lesser offenses (¶ E2.A10.1.2.2.)

Applicant's criminal conduct was recent and, since he presented no evidence he had made the required filings, on-going. His failure to file federal income tax returns for two tax years reveals his acts are not isolated and demonstrate a pattern of criminal conduct. Thus, mitigating conditions ¶¶ E2.A10.1.3.1. and E2.A10.1.3.2 of Guideline J do not apply in this case. Additionally, Applicant failed to provide evidence of successful rehabilitation, and, therefore, mitigating condition E2.A10.1.3.6. does not apply.

Applicant seeks the privilege of a security clearance and the opportunity to safeguard classified information. A person seeking access to classified information enters into a fiduciary relationship with the Government based upon trust and confidence. Where the facts proven by the Government or admitted by the applicant raise doubts about the applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that he or she is nevertheless security worthy.

I conclude Applicant failed to rebut the allegation he willfully failed to file his federal tax returns for Tax Years 2001 and 2002, conduct that supports an allegation of multiple misdemeanor crimes. I also conclude the State statute cited in the SOR did not allege criminal conduct or impose criminal penalties for failure to timely file State tax returns. Accordingly, the allegation in the SOR that Applicant's admitted failure to file his State tax returns for two years was criminal conduct under the State statute cannot be sustained. After weighing the disqualifying and mitigating conditions of Guideline J and after evaluating Applicant's conduct in light of the whole person concept identified at ¶ E2.2 of Enclosure 2 of the Directive, I conclude the Guideline J allegation at subparagraph 3.b. of the SOR for the Applicant and the Guideline J allegation at subparagraph 1.a. of the SOR against the Applicant.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR:

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.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

Paragraph 2.: Guideline E: AGAINST APPLICANT

Subparagraph 2.a.: Against Applicant

Subparagraph 2.b.: Against Applicant

Subparagraph 2.c.: Against Applicant

Subparagraph 2.d.: Against Applicant

Subparagraph 2.e.: Against Applicant

Subparagraph 2.f.: Against Applicant

Subparagraph 2.g.: Against Applicant

Subparagraph 2.h.: Against Applicant

Subparagraph 2.i.(1): Against Applicant

Subparagraph 2.i.(2): Against Applicant

Subparagraph 2.j.: Against Applicant

Paragraph 3.: Guideline J: AGAINST APPLICANT

Subparagraph 3.a.: Against Applicant

Subparagraph 3.b.: For Applicant

DECISION

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 a security clearance for Applicant. Clearance is denied.

Joan Caton Anthony

Administrative Judge

1. Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified.
2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified.
3. Disqualifying Condition E2.A6.1.2.1. reads: "A history of not meeting financial obligations." Disqualifying Condition E2.A6.1.2.3. reads: "Inability or unwillingness to satisfy debts."
4. Mitigating Condition E2.A6.1.3.1. reads: "The behavior was not recent." Mitigating Condition E2.A6.1.3.2 reads: "It was an isolated incident."
5. The SOR incorrectly identified these allegations as 1.a., 1.b., 1.d., and 1.e.
6. The SOR incorrectly characterizes Question 20 on the SF-86 as soliciting unfavorable employment record information from an applicant that goes back 10 years. Question 20 asks applicants to list unfavorable employment going back only seven years. (See Ex. 1 and Ex. 2.) Applicant's omissions in answering Question 20 are not affected by this inaccuracy in the SOR.
7. Disqualifying Condition (DC) E2.A5.1.2.1. reads: "Reliable, unfavorable information provided by associates, employers, coworkers, neighbors, and other acquaintances." DC E2.A5.1.2.2. reads: "The deliberate omission, concealment, or falsification of relevant and material facts from any personal 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." DC E2.A5.1.2.4. reads: "Personal conduct or concealment of information that increases an individual's vulnerability to coercion, exploitation, or duress, such as engaging in activities which, if known, may affect the person's personal, professional, or community standing or render the person susceptible to blackmail."
8. MD Code, Tax - General § 1-804. General requirements. (West's Annotated Code of Maryland): [Http://web2.westlaw.com](http://web2.westlaw.com), accessed 10/20/2005.