

DATE: March 27, 2007

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 06-01360

DECISION OF ADMINISTRATIVE JUDGE

EDWARD W. LOUGHRAN

APPEARANCES

FOR GOVERNMENT

Daniel F. Crowley, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 45-year-old employee of a defense contractor. Applicant accumulated approximately \$27,500 in delinquent debts. He has taken no significant action to pay the debts. He received Non-Judicial Punishment while in the military in 2002, for failing to pay his Government travel card bill. He falsified his responses to security clearance application questions concerning his military disciplinary record and financial problems. Applicant failed to mitigate the security concerns arising from his financial difficulties, personal conduct, and criminal conduct. 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 August 31, 2006, DOHA issued a Statement of Reasons⁽¹⁾ (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 October 4, 2006 and December 12, 2006, and elected to have a hearing before an administrative judge. The case was assigned to me on January 10, 2007. A notice of hearing was issued on February 2, 2007, scheduling the hearing for February 21, 2007. The hearing was conducted as scheduled to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government offered six exhibits that were marked as Government Exhibits (GE) 1 through 6, and admitted without objection. Applicant testified and offered five exhibits that were marked Applicant Exhibits (AE) A through E, and admitted without objection. The record was left open to allow Applicant an opportunity to submit additional material. He did so in a timely manner. The three documents were marked AE F through H, and admitted without objection. Department Counsel's letter forwarding Applicant's supplemental material was marked Hearing Exhibit (HE) I. DOHA received the hearing transcript (Tr.) on March 9, 2007.

FINDINGS OF FACT

Applicant's admissions to the allegations in the SOR, are incorporated herein. In addition, after a thorough and careful

review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is a 45-year-old employee of a defense contractor. He was married from 1983 until he divorced in 1997. Applicant remarried in 2001. He has an adult child from his previous marriage. Applicant and his wife have a six-year-old child, and Applicant has three stepchildren, ages 15, 12, and 10. Applicant has been separated from his wife since December 2006. The children live with their mother. A formal child support agreement is not in place, but Applicant has paid his wife at least \$1,100 per month in child care, auto loans, and other expenses. The separation was not Applicant's idea, and he is seeking reconciliation. [\(2\)](#)

Applicant is a high school graduate, with some college credits. He served in the United States military from 1979 to 2003. He retired as an E-7, and received an Honorable Discharge. [\(3\)](#)

Applicant first started experiencing financial difficulties in about 1997 or 1998. He essentially was spending more than he had coming in. In about 2001, Applicant and his wife decided to buy a house. They required a \$5,000 non-refundable deposit on the house. In order to save the \$5,000 that was necessary for the deposit, Applicant let some of his debts become delinquent. Shortly thereafter, Applicant received orders overseas in 2002, for a one-year-unaccompanied tour. This was his fifth overseas tour to this country during his career. Applicant attempted to have his orders modified but was unsuccessful. The closing on Applicant's house occurred shortly after he went overseas, with his wife handling the closing. Applicant's house was purchased for approximately \$270,000. His mortgage was about \$220,000, with a second mortgage of about \$50,000. The house and mortgages were in his wife's name. An additional \$10,000 was required at closing. Applicant did not anticipate this additional expense. [\(4\)](#)

When Applicant went overseas, his Basic Allowance for Housing (BAH) was greatly reduced. This was because Applicant's BAH before he went overseas was based on the zip code of his duty station. When Applicant transferred overseas, the BAH for his family was based on the zip code of where his house was located. His house was located in a lower cost area than his old duty station, resulting in a substantially lower BAH. Applicant did not anticipate this loss of income, which made it difficult to remain current on his debts. Applicant's spouse was injured during this period. She was able to continue working, but was unable to do anything additional to help offset the loss of income and higher expenses incurred by a new house, and Applicant living overseas. [\(5\)](#)

When Applicant first arrived overseas, there was insufficient room on base, and he had to live in a local hotel for about four months. Applicant incurred no additional expenses by this, as the U.S. Government reimbursed him for the cost of the hotel, and also paid him per diem while he was in the hotel. Applicant charged his hotel bill on his Government travel credit card. As the Government reimbursed Applicant, he was required to pay the balance on the travel card. The reimbursement by the Government was direct-deposited to his bank account. Applicant's wife was handling the bills at home and had access to Applicant's bank account. She used the reimbursement money to pay household expenses, and the travel card went unpaid. Applicant received Non-Judicial Punishment (NJP) under Article 15 of the Uniform Code of Military Justice in 2002, for failure to make payments on his Government travel card. As punishment, he was ordered to forfeit \$300, and was restricted to base for 30 days. He was further required to pay the balance on the Government credit card, and did so. [\(6\)](#)

Applicant was unemployed for about five to six months after he retired from the military in 2003. He was then hired by his current employer. [\(7\)](#)

Applicant and his wife fell behind on their mortgage payments in 2004, and faced possible foreclosure. In about June 2004, Applicant's wife entered into an agreement with the owner of the second mortgage, that the mortgage company would purchase the property for the amount owed on the mortgages, Applicant and his wife would pay rent, and they had an option to repurchase the property within a year, at the same sales price. As part of their contract, Applicant and his wife were required to pay the rent on time. Applicant and his wife attempted to correct some of his wife's credit issues, so that she would qualify for financing when it came time to repurchase the house. While doing so, they were late on two rent payments. When they went to repurchase the property at the end of the year, in June 2005, Applicant and his wife were told that they violated the contract, and that if they wanted to buy the property, they would have to pay current market value. The property had appreciated during the time it was owned and rented by Applicant and his

wife. They could not afford to purchase it at market value, and were forced to move out in about August 2005. Applicant had hoped to use the equity in the property to pay his delinquent debts. [\(8\)](#)

Applicant and his wife spent much of the next year and a half living with friends, family, or in hotels. Applicant's wife had credit issues also. Applicant and his wife continued to pay down his wife's debts, so that she would be able to qualify for a mortgage to purchase a new home. This was done at the expense of paying Applicant's delinquent debts. Applicant's wife ended up separating from Applicant, and purchased a house without him. She is now living in the house with her children. A female friend is also living in the house. Applicant believes she is a co-owner of the house, and pays part of the mortgage. He further believes that his wife has an agreement with the co-owner that would permit his wife to buy out the co-owner's interest in the property. Applicant is now living in a rented apartment, and pays \$1,433 per month in rent. [\(9\)](#)

Applicant and his wife are making car payments on three vehicles. They had two cars, but one of the cars had transmission problems. Applicant purchased a third car for his use in about May or June 2006. The car with the transmission problem is now repaired, but more money is owed on the car than it is worth. Applicant's wife would like to trade in her car and the car that had the transmission problem for another car. [\(10\)](#)

Applicant admits to owing the delinquent debts in SOR ¶¶ 1.a through 1.f, 1.h, and 1.j. The debts are mostly for credit cards, and total approximately \$27,500. [\(11\)](#)

The debt in SOR ¶ 1.i, reflects a judgment of \$650 entered in July 2004, against Applicant by the homeowner's association for dues owed on the original house purchased in his wife's name. Applicant testified that the delinquent homeowner's dues and judgment occurred after his wife sold the house, and while they were renting it. Applicant submitted documentation from the homeowner's association acknowledging that Applicant and his wife were not responsible for the debt, and that they would request their counsel to file a motion to vacate the judgment. [\(12\)](#)

The debt in SOR ¶ 1.k is a \$75 debt for utility services. Applicant testified that this debt was paid, and submitted supporting documentation. [\(13\)](#)

Applicant received financial counseling through his credit union and through his apartment complex. [\(14\)](#)

Applicant submitted a security clearance application, Standard Form 86 (SF-86), on October 10, 2003. Question 38 asked, "In the last 7 years, have you been over 180 days delinquent on any debt(s)?" Applicant answered "YES," and listed a 2002 debt of \$3,000 on his Government travel card. Question 39 asked, "Are you currently over 90 days delinquent on any debt(s)?" Applicant answered "NO." [\(15\)](#)

Applicant admits that he knew he had delinquent debts, but that he believed they were charged off. Applicant states his company did not have a Facilities Security Officer (FSO) at that time, but he requested assistance of the manager responsible for the security clearance applications. Applicant testified he told her he had delinquent debts, how old they were, and that they had been charged off. He stated that she told him that he did not have to list the debts because she thought the statute of limitations had run, and that he should only list new debts. [\(16\)](#) He testified he told her:

I said I do have some debts outstanding out there. I said they are way over 180 days due, I said how do I list this and she told me not to worry about it. That is how I asked the question.

I had been in (overseas country) for over a year and I know I had not paid those bills and they were all over 180 days due. I asked her straight forward, just like that. I have outstanding debts, they are over 180 days but I believe they have been turned over to other credit companies and I do not have that information, how do I fill it out or do I need to fill it out and that is when she told me do not worry about it. [\(17\)](#)

The documentary evidence establishes that Applicant's delinquent debts arose after 1997. Applicant's credit report from July 1997 reveals only one adverse entry, an auto loan that was 30 days past due at some point, but had a zero balance at [\(18\)](#)

that time. Applicant's credit report of August 11, 2004, lists the delinquent debts contained in SOR ¶¶ 1.a through 1.f, and 1h. Of those debts, the credit report lists the last activity of the debt in SOR ¶ 1.f, as November 1998. The credit report lists the last activity of the other debts as between April 2000 and November 2001. [\(19\)](#)

Applicant made several contradictory statements at his hearing about his debts, and why he did not list them on his SF-86. When initially asked how old he thought his debts were, Applicant responded "1997 and probably 1997/1998." [\(20\)](#) Applicant later admitted that he let some of his debts become delinquent in 2001, in order to save for the down payment on his house. [\(21\)](#) Still later, Applicant testified that while he was overseas he knew that he did not pay the bills and that they were all over 180 days due. [\(22\)](#) When Applicant was asked how he knew his debts had been charged off, Applicant replied, "[b]ecause I received some letters in the mail stating they were going to send it to a collection agency, the account would have been closed." [\(23\)](#) When this question was followed by the question if Applicant was receiving letters from collection agencies, he responded:

Actually, no. But like I said sir, I had been in (overseas country) for the previous year. I was not receiving anything at our house in (Applicant's home state). I did not receive any letters there. I will say that occasionally there is one company that would send something to my father and my father and I have the same name and the company was (department store in SOR ¶ 1.d) and (department store in SOR ¶ 1.e). He had an account with them and I had an account with them and I believe there was on numerous occasions that they crossed our two accounts. [\(24\)](#)

Question 25 of the SF-86 asked, "In the last 7 years, have you been subject to court martial or other disciplinary proceedings under the Uniform Code of Military Justice? (include non-judicial, Captain's mast, etc.) For this item, report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C. 844 or 18 U.S.C. 3607." Applicant answered "NO." [\(25\)](#) This was an incorrect answer because of Applicant's NJP under Article 15 of the Uniform Code of Military Justice in 2002. Applicant stated he did not understand the question, and that he knew he received Article 15 Non-Judicial Punishment, but he did not receive a court-martial. He stated he asked the manager if he had to list his Article 15, and she informed him that if he was not court-martialed, then he did not have to list it. [\(26\)](#)

Applicant testified that the manager who provided the bad advice to him about his SF-86, also provided bad advice to other employees, impacting on their security clearance. He stated that manager was no longer with his company. The record was left open for Applicant to submit additional documentation. Applicant was asked if he could submit an affidavit or statement from another employee to corroborate his statement about the manager. He testified he would attempt to do so. [\(27\)](#) No additional material was received on this matter.

I find Applicant intentionally falsified his SF-86 by failing to list his NJP in response to Question 25, and by failing to list all his delinquent debts in response to Questions 38 and 39.

Applicant was interviewed pursuant to his background investigation in about June 2005. Applicant discussed his delinquent debts and NJP with the investigator at that time. [\(28\)](#)

Applicant responded to interrogatories on June 21, 2006. The interrogatories stated that Applicant expressed a willingness to resolve his indebtedness during his June 2005 interview, and asked him to address his delinquent debts. Applicant stated that he and his wife were working on clearing her credit and would start on his debts after they resolved her credit problems. [\(29\)](#) At his hearing, Applicant testified that he intends to pay his delinquent debts. [\(30\)](#)

Applicant is highly regarded by his employer, in his community, and by those who knew him in the military. Character letters on Applicant's behalf praise his character, trustworthiness, integrity, honesty, leadership, perseverance, dedication, ethics, and commitment and loyalty to the United States. He was lauded for his professional handling and safeguarding of classified materials. [\(31\)](#)

POLICIES

"[N]o one has a 'right' to a security clearance." (32) 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." (33) The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." (34) An applicant has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance. The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials. (35) Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information. (36) The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. 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. (37)

The Directive sets forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the adjudicative process factors listed in ¶ 6.3 and ¶ E2.2.1 of the Directive.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guidelines are set forth and discussed in the conclusions section.

CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

Guideline F, Financial Considerations

An individual who is financially overextended is at risk of having to engage in illegal or unethical acts to generate funds to meet financial obligations.

Based on all the evidence, Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1 (*A history of not meeting financial obligations*), and FC DC E2.A6.1.2.3 (*Inability or unwillingness to satisfy debts*), apply in this case. Applicant accumulated numerous delinquent debts that remain unsatisfied.

I have considered all the Financial Considerations Mitigating Conditions (FC MC), and especially considered FC MC E2.A6.1.3.1 (*The behavior was not recent*), FC MC E2.A6.1.3.2 (*It was an isolated incident*), FC MC E2.A6.1.3.3 (*The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)*), FC MC E2.A6.1.3.4 (*The person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*), and FC MC E2.A6.1.3.6 (*The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Applicant has numerous delinquent debts accrued over a several year period. Most remain unpaid. FC MC E2.A6.1.3.1 and FC MC E2.A6.1.3.2 do not apply.

Several factors contributed to Applicant's financial difficulties. He was ordered overseas while in the process of buying a house. While serving overseas, his Basic Allowance for Housing was significantly lowered. Applicant's wife was injured. She continued to work, but was unable to do anything additional to offset their increased expenses and loss of income. Applicant was unemployed for about six months after he retired from the military. Applicant lost his house and the potential equity in the house, which he hoped to use to pay off some creditors. Applicant's wife left him and bought a house, resulting in a duplication of household expenses. While these factors clearly contributed to Applicant's problems, they cannot all be said to be largely beyond the Applicant's control. Applicant admitted his financial problems started in the late 1990s. This is verified at least in part by the 2004 credit report which lists the last activity of the debt

in SOR ¶ 1.f, as November 1998. This occurred prior to the above listed factors. Applicant also admitted that he stopped paying debts in order to save for the down payment on his house. That was a misguided financial decision, but not the type of conduct that was beyond his control. While Applicant's loss of his house was extremely unfortunate, it should have been anticipated. Applicant knew that it was a term of the option to repurchase his house that they remain current on their rent payments. When they violated the terms of the option by not paying their rent on time, they lost the ability to repurchase the house at the set price. Applicant's loss of BAH while overseas, his wife's injury, and unemployment are conditions that were largely beyond Applicant's control, but do not account for all of Applicant's financial problems, and failure to resolve his issues. FC MC E2.A6.1.3. is partially applicable.

With the exception of the debt in SOR ¶ 1.k, in the amount of \$75 for utilities, Applicant has done almost nothing to pay the debts in issue. SOR ¶ 1.g, reflects Applicant's NJP for failing to pay his Government travel card, but does not allege that the debt was still owed. Applicant paid that debt in 2002, in accordance with military requirements. Applicant successfully disputed the debt in SOR ¶ 1.i. The remaining delinquent debts total approximately \$27,500. Applicant has not initiated a good-faith effort to repay overdue creditors or otherwise resolve debts. FC MC E2.A6.1.3.4 does not apply.

Applicant received counseling for his financial problem, but he has not shown that his financial problems are being resolved or under control. Applicant and his wife spent much of the last 18 months attempting to clear his wife's credit so they could purchase a house with her credit. They apparently succeeded because she separated from Applicant and bought a house without him. Applicant hopes to reconcile with his wife, but he is now living in an apartment. Applicant has not shown a pattern of financial responsibility while living with his wife. Separation involves duplication of household expenses and child support. It is too early in Applicant's separation to say that he is now in control of his finances. Applicant has done very little to resolve his delinquent debts. He does not have a track record sufficient for a finding that his financial problem is being resolved or is under control. FC MC E2.A6.1.3.6 is not applicable.

Guideline E, Personal Conduct

Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

Based on all the evidence, I have considered Personal Conduct Disqualifying Condition (PC DC) E2.A5.1.2.2 (*The deliberate omission, concealment or falsification of relevant and material 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*).

As discussed above, Applicant's answers to Questions 25, 38, and 39 were incorrect. The debts contained in SOR ¶¶ 1.a through 1.f, and 1.h, were delinquent well before Applicant submitted his security clearance application. Applicant admitted he was aware of the delinquent debts and his NJP. A finding that the answers were incorrect, however, is not dispositive of the issue of Applicant's falsification since the mere proof of an omission or an incorrect answer, standing alone, does not establish or prove an applicant's intent or state of mind when the omission or incorrect response occurred. ⁽³⁸⁾ Applicant testified that he misunderstood the questions and received advice that he did not have to list the debts and NJP.

Applicant's denials of falsification are relevant information, but they are not necessarily dispositive. In this case, I observed Applicant during his testimony, and accessed his demeanor and credibility. I also considered other evidence in addition to my credibility determination.

Applicant is not inexperienced in security matters. He served more than 23 years in the military. He has submitted an SF-86, or similar form, on previous occasions. His character letters praise him for his ability to handle classified information. He has taken college courses. I specifically considered Applicant's contradictory responses, as addressed above. I also considered the wording of the pertinent questions. The wording of the financial questions are sufficiently clear for someone of Applicant's education and experience to understand. Applicant's listing of his Government travel card debt, which was paid, is also evidence that Applicant understood Question 38. The last two sentences of Question

25, which addresses records that have been "sealed" or "stricken," could be confusing. However, Applicant did not claim to be confused by this section. Applicant claims he was confused by the first section. Applicant stated this question gave him sufficient pause that he asked the manager in charge of the applications if he had to list his Non-Judicial Punishment. To find in Applicant's favor on this matter, I would have to find that this experienced, retired E-7 misread this very simple question. I would also have to find that the manager placed in charge of monitoring the SF-86s also misread this very simple question. Applicant testified that other employees of his company also received poor advice from the manager. When provided time and the opportunity to corroborate this claim, Applicant submitted nothing.

I find that Applicant did not accurately answer certain questions on his SF-86, and that his inaccurate answers were intentional and deliberate. PC DC E2.A5.1.2.2 is applicable.

I considered all the mitigating conditions and specifically considered Personal Conduct Mitigating Condition (PC MC) E2.A5.1.3.2 (*The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily*), PC MC E2.A5.1.3.3 (*The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts*), PC MC E2.A5.1.3.4 (*Omission of material facts were caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided*), and PC MC E2.A5.1.3.5 (*The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress*).

Appellant falsified his security clearance application in October 2003. Applicant was interviewed pursuant to his background investigation in June 2005, and discussed his debts and his NJP. There is no evidence that Applicant did anything between the application and the interview to correct his falsification. This does not constitute a good-faith attempt to correct the falsification before he was confronted with the facts. Applicant denied his falsification in his response to the SOR and at his hearing. His claims about the poor advice received from his manager are uncorroborated. Having found that Applicant falsified his SF-86, I also find that Applicant was untruthful in his response to the SOR, and during his testimony at his hearing. Appellant's failure to be completely honest, even at the hearing, shows that he has not taken positive steps to significantly reduce or eliminate his vulnerability to coercion, exploitation, or pressure. One objective of the security clearance process is to determine all relevant and material information concerning an applicant. The process requires full and open disclosure by the applicant of all requested information. Any intentional misrepresentation or omission by an applicant materially obstructs the investigation of Applicant's security worthiness and raises serious concerns about the character and overall integrity of the individual. No mitigating conditions apply.

Guideline J, Criminal Conduct

A history or pattern of criminal activity creates doubt about an applicant's judgment, reliability, and trustworthiness.

It is a criminal offense to knowingly and willfully make any materially false, fictitious, or fraudulent statement or representation in any matter within the executive branch of the Government of the United States. 18 U.S.C. § 1001. Security clearances are within the jurisdiction of the executive branch of the Government of the United States. ⁽³⁹⁾ A violation of 18 U.S.C. § 1001 is a serious offense as it may be punished by imprisonment for up to five years. Applicant knowingly and willfully made a materially false statement on his SF-86, as discussed above. Criminal Conduct Disqualifying Condition (CC DC) E2.A10.1.2.1 (*Allegations or admissions of criminal conduct, regardless of whether the person was formally charged*), and CC DC E2.A10.1.2.2 (*A single serious crime or multiple lesser offenses*) both apply.

I have considered all the mitigating conditions and especially considered Criminal Conduct Mitigating Condition (CC MC) E2.A10.1.3.1 (*The criminal behavior was not recent*), CC MC E2.A10.1.3.2 (*The crime was an isolated incident*), and CC MC E2.A10.1.3.6 (*There is clear evidence of successful rehabilitation*), and conclude none apply. Applicant deliberately falsified his SF-86. I further find that he intentionally provided false testimony at his hearing. Under these circumstances, no mitigating conditions apply.

Whole Person Analysis

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is an acceptable security risk. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating Applicant's case, I have considered the adjudicative process factors listed in the Directive.

I have considered every finding of fact and conclusion discussed above. I considered Applicant's unexpected financial circumstances, including his orders overseas, drop in BAH, wife's injury, and unemployment. I also considered that Applicant had financial problems before any of the above circumstances. He stopped paying his bills in 2001, in order to save for a down payment on his house. While overseas, Applicant appropriately charged his hotel bill on his Government travel card. He was reimbursed by the Government and paid per diem while in the hotel, but he failed to pay the travel card bill, and he received Non-Judicial Punishment. When he and his wife could not maintain their mortgage payments, they sold the house to the mortgagor, with the option to repurchase in one year. Applicant failed to pay his rent on time, and lost the option to repurchase the property. Applicant failed to pay his debts in order to use the money to improve his wife's credit. They are now separated. Applicant still owes approximately \$27,500 for his delinquent debts. He states he intends to repay the debts, but has done almost nothing so far to do so.

Applicant served our country honorably for more than 23 years in the military. Those who know him from the military, his current employer, and in his community, think highly of him. However, his disregard for the truth cannot be ignored. He intentionally falsified his security clearance application, and then was not truthful in his testimony at his hearing.

After weighing the disqualifying and mitigating conditions and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns based on his financial issues, personal conduct, and criminal conduct.

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.g: For Applicant

Subparagraph 1.h: Against Applicant

Subparagraph 1.I: For Applicant

Subparagraph 1.j: Against Applicant

Subparagraph 1.k: For Applicant

Paragraph 2. Guideline E: AGAINST APPLICANT

Subparagraph 2.a: Against Applicant

Subparagraph 2.b: Against Applicant

Subparagraph 2.c: Against Applicant

Paragraph 3. Guideline J: AGAINST APPLICANT

Subparagraph 3.a: Against 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.

Edward W. Loughran

Administrative Judge

1. Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified (Directive).

2. Tr. at 26-27, 36-37; GE 1.

3. Tr. at 72; GE 1.

4. Tr. at 15-17, 24, 58-63, 68-69; Applicant's response to SOR.

5. Tr. at 16-18, 24; Applicant's response to SOR.

6. Tr. at 18-20; Applicant's response to SOR.

7. Tr. at 100-101.

8. Tr. at 21, 28-29, 58-63; Applicant's response to SOR.

9. Tr. at 32, 44-47, 51-53.

10. *Id.* at 48-50.

11. Tr. at 64; Applicant's response to SOR.

12. Tr. at 56-58; AE F.

13. Tr. at 64; AE H.

14. Tr. at 66.

15. GE 1 at 8.

16. Tr. at 13-15, 71-74; Applicant's response to SOR.

17. Tr. at 74.

18. GE 2.

19. GE 3.

20. Tr. at 15.
21. *Id.* at 24-25, 68-69.
22. *Id.* at 74.
23. *Id.* at 71.
24. *Id.* at 71-72.
25. GE 1 at 7.
26. Tr. at 20, 74-77.
27. *Id.* at 78.
28. Tr. at 20; Applicant's response to SOR; GE 5 at 2.
29. GE 5.
30. Tr. at 79.
31. AE A-E.
32. *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).
33. *Id.* at 527.
34. Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).
35. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
36. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.
37. Exec. Or. 10865 § 7.
38. *See, e.g.*, ISCR Case No. 05-03472 at 6 (App. Bd. Mar. 11, 2007).
39. *See Egan*, 484 U.S. at 527.