



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



In the matter of:)	
)	
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SSN: -----)	ISCR Case No. 07-17806
)	
Applicant for Security Clearance)	

Appearances

For Government: Julie R. Edmunds, Esquire, Department Counsel
For Applicant: Pro Se

September 16, 2008

Decision

MALONE, Matthew E., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, Applicant's request for a security clearance is denied.

On June 28, 2007, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to request a security clearance for his employment with a defense contractor. After reviewing the results of the ensuing background investigation, adjudicators for the Defense Office of Hearings and Appeals (DOHA) were unable to make a preliminary affirmative finding¹ that it is clearly consistent with the national interest to grant Applicant's request. On February 14, 2008, DOHA issued to Applicant a Statement of Reasons (SOR) alleging facts which raise security concerns

¹ Required by Executive Order 10865, as amended, and by DoD Directive 5220.6 (Directive), as amended.

addressed in the Revised Adjudicative Guidelines (AG)² under Guideline F (financial considerations), Guideline J (criminal conduct), and Guideline E (personal conduct).

Applicant timely responded to the SOR and requested a hearing. The case was assigned to me on May 27, 2008, and I convened a hearing on June 18, 2008. The parties appeared as scheduled. The government presented 14 substantive exhibits (Gx. 1 - 14)³ and one demonstrative exhibit (Jx. I). Applicant testified in his own behalf, and offered three exhibits admitted without objection as Applicant's Exhibits (Ax.) A - C. I also left the record open to receive a post-hearing submission from Applicant. On June 19, 2008, Applicant submitted an 18-page exhibit via Department Counsel, who had no objection to its admission. Accordingly, Applicant's post-hearing submission was included in the record as Ax. D. DOHA received the transcript (Tr.) on June 26, 2008.

Procedural Issues

1. As to Guideline F, the government initially alleged in SOR ¶¶ 1.a - 1.oo that Applicant owed approximately \$39,878 for 41 delinquent debts. On April 21, 2008, Department Counsel moved to amend the SOR by proposing to strike SOR ¶ 1.hh as a duplicate of SOR ¶ 1.u, and by striking SOR ¶ 1.z as a duplicate of SOR ¶ 1.mm. The motion also proposed amending the SOR to add under SOR ¶ 1, four new allegations of debt as follows:

“pp. You are indebted to The Center for Orthopedics for a judgment against you in the approximate amount of \$8,419. As of April 17, 2008, this debt had not been paid.

qq. You are indebted to VA Heartland Bank for a judgment against you in the approximate amount of \$2,045. As of April 17, 2008, this debt had not been paid.

rr. You are indebted to Sport & Health Company LC for a judgment against you in the approximate amount of \$425. As of April 17, 2008, this debt had not been paid.

ss. You are indebted to Fred Ambulatory Surgery Center for a judgment against you in the approximate amount of \$1,236. As of April 17, 2008, this debt had not been paid.”

Applicant timely responded to Department Counsel's motion and made no objection to it. (Tr. 15 - 16) Accordingly, as amended, the SOR alleges 43 unpaid and past due debts: one for an unpaid municipal tax lien (SOR ¶ 1.a), 14 debts being

² Adjudication of this case is controlled by the Revised Adjudicative Guidelines, approved by the President on December 29, 2005, which were implemented by the Department of Defense on September 1, 2006. Pending official revision of the Directive, the Revised Adjudicative Guidelines supercede the guidelines listed in Enclosure 2 to the Directive, and they apply to all adjudications or trustworthiness determinations in which an SOR was issued on or after September 1, 2006.

³ Gx. 9 was admitted over Applicant's objection. (Tr. 41 - 43)

enforced through civil judgment (SOR ¶¶ 1.b - 1.k, 1.pp - 1.ss), 26 debts referred to collection agencies (SOR ¶¶ 1.l - 1.y, 1.aa - 1.gg, 1.ii - 1.mm), and two for unpaid telephone accounts (SOR ¶¶ 1.nn and 1.oo). The total debt alleged in the SOR, as amended, was approximately \$43,008.

2. As to Guideline J, the SOR alleged Applicant was arrested in November 2006 and charged with felonious assault (SOR ¶ 2.a); that he was arrested in June 2002 and charged with assault and battery (SOR ¶ 2.b); that he was arrested in August 2002 and charged with violating a protective order and with assault and battery (SOR ¶ 2.c); and that he violated the provisions of 18 U.S.C. § 1001 by deliberately falsifying answers to questions in his June 2007 SF-86 (SOR ¶ 2.d).

As to Guideline E, the SOR alleged Applicant deliberately falsified answers to questions in his June 2007 e-QIP. Specifically, it was alleged in SOR ¶ 3.a that he deliberately failed to list any of his arrests when he answered “no” to questions 23a. - 23.e (Your Police Record). In SOR ¶ 3.b, it was alleged that, by answering “no” to e-QIP question 23.a, he deliberately failed to disclose that he had been charged with the felony offense listed in SOR ¶ 2.a.

However, as drafted, the last sentence of SOR ¶ 3.b stated “You deliberately failed to disclose the allegations as set out in subparagraph 1.a.” (emphasis added) In accordance with ¶ E3.1.17 of the Directive, I amended SOR ¶ 3.b *sua sponte* to conform to the evidence introduced at hearing. Accordingly, the last sentence of SOR 3.b now reads as follows: “You deliberately failed to disclose the allegations as set out in subparagraph 2.a.” (emphasis added)

Findings of Fact

Under Guideline F, Applicant admitted the debts alleged in SOR ¶¶ 1.a, 1.c - 1.e, 1.g, 1.h, 1.m, 1.v, and 1.y, but explained those debts had either been paid or that arrangements were being made with the creditors to satisfy the debts. He also admitted the debts alleged in SOR ¶¶ 1.l, 1.k, 1.i, 1.o, 1.p, 1.u, 1.aa - 1.gg, and 1.jj - 1.nn, but explained he was resolving those debts through a debt consolidation plan. Applicant also admitted, without explanation, the debts alleged in SOR ¶¶ 1.pp - 1.ss. (Tr. 15) Applicant denied owing the debts alleged in SOR ¶¶ 1.j, 1.w, and 1.x. As to SOR ¶¶ 1.b, 1.f, 1.n, 1.q - 1.t, and 1.ii, Applicant did not deny or admit owing the debts alleged. (Tr. 14)

Under Guidelines J and E, Applicant responded to the allegations by stating, “I do not Deny and (sic) admit my arrests. I was not guilty in these charges.” He then provided a brief explanation of the events alleged in SOR ¶¶ 2.a - 2.c. At hearing, Applicant acknowledged he had been arrested as alleged. (Tr. 16 - 18) But Applicant denied the allegations in SOR ¶¶ 3.a and 3.b that he had deliberately made false statements to the government when he omitted from his security clearance application his arrests in November 2000, June 2002, and August 2002. He did not respond to the allegation in SOR ¶ 2.d that his alleged false statements to the government constitute criminal conduct as violations of 18 U.S.C. § 1001. However, by his denial of the SOR ¶¶ 3.a and 3.b allegations, he effectively denied the SOR ¶ 2.d allegation. (Tr. 16 - 17)

In addition to the facts admitted through his response to the SOR, I make the following findings of fact based on my review of the pleadings, transcript, and exhibits,

Applicant was employed by a defense contractor from April 2007 until April 2008, when he was hired for a significant pay increase by another defense contractor. However, when it became clear the adjudication of his request for clearance submitted in June 2007 was not yet complete, he was laid off. Nonetheless, his employer stated in writing that Applicant will be re-hired if he obtains his clearance. That letter is included in the record as Jx. 11. He currently works as a civilian federal employee of one of the military services and has submitted another request for clearance in connection with that job. (Tr. 4 - 9)

Applicant is 31 years old and has worked in the information technology (IT) industry since about 1996. More specifically, he currently works as an information security specialist. After graduating high school in 1995, he attended a technical school for about two years before finding work as an IT consultant and network field engineer. In about 1997, he started doing IT work on his own, and by 1999 had started his own company. He had no direct-hire employees working for him, but paid other independent consultants to do some of the work called for in his contracts with various customers. Between 2000 and 2002, Applicant's business experienced a downturn and he stopped using the services of those contractors, whose income Applicant reported to the Internal Revenue Service (IRS) using Form 1099. The other contractors were responsible for reporting their income and paying their own taxes. (Tr. 145) One of the contractors filed for unemployment benefits to which Applicant insisted she was not entitled; however, a judgment was entered against Applicant to enforce a \$528 tax debt. (SOR ¶ 1.a) Applicant paid that judgment in September 2003. After his business failed, he continued to find work on his own as an IT consultant to several customers at once. (Tr. 74, 147)

As a result of Applicant's business problems, he fell behind on several financial obligations. He failed to pay several parking tickets and property tax bills for which judgments were obtained against him. (SOR ¶¶ 1.c - 1.e, 1.g, 1,h) Applicant also had tax and other financial problems as a result of poor or ineffective tax filing and accounting practices. (Tr. 145) He paid the debts in SOR ¶¶ 1.d, 1.e, 1.g, and 1.h in December 2006. He paid the SOR ¶ 1.c debt the day of his hearing. (Ax. D)

Applicant also carried no medical coverage between 1999 and 2007. A previous employer revoked his medical benefits apparently in reprisal for Applicant's decision to seek out his own business. As a result, when Applicant hurt his knee around that time, he had no insurance with which to cover the costs of treatment and surgery. (Tr. 142 - 144) Applicant had a second knee surgery in 2007, and was hospitalized in October 2007 when he developed an infection after surgery. (Tr. 60; Ax. B) While it appears he had medical insurance coverage for his second surgery through his defense contractor employer, his lack of coverage before 2007 resulted in several medical bills he could not pay. Those debts were reduced to civil judgments or referred to collection agencies (SOR ¶¶ 1.b, 1.q - 1.u, 1.cc - 1.gg, 1.mm, 1.pp, and 1.ss) which remain unpaid. (Gx. 3; Gx. 9; Tr. 109)

Applicant also struggled to pay other personal obligations such as car loans. He has had four cars repossessed since 1997 and still owes Ford Motor Credit Company \$3,956 for the remainder after resale of a vehicle he returned to the dealer. (SOR ¶ 1.i; Gx. 3) He also owes \$4,000 for the balance of a loan on a vehicle he had under-insured when it was totaled in a car accident. (SOR ¶ 1.ii;⁴ Gx. 3; Tr. 82 - 84) Applicant also still owes \$2,000 for the remainder after re-sale of another vehicle that was involuntarily repossessed in 1997 (SOR ¶ 1.qq; Gx. 12; Tr. 100 - 101). None of these debts has been paid.

Applicant also owes three debts to a cable TV company for failing to return cable boxes or pay for services when he moved in 2005. (SOR ¶¶ 1.w, 1.x, and 1.bb) Applicant claimed he has paid these debts but was unable to present any documentation to support his claim. (Tr. 80 - 81)

Applicant has disputed an \$8,000 debt attributed to him resulting from a disagreement about changes to a lease for his residence in 2004 and 2005. The debt was reduced to a civil judgment in 2005, which has not yet been paid. (Gx. 3; Tr. 88 - 92) He also owes several unpaid debts for utilities from around the same time for phone service accounts (SOR ¶¶ 1.l, 1.n, 1.o, 1.t, 1.v, 1.aa, 1.kk, 1.nn, 1.oo), electricity (SOR ¶¶ 1.m and 1.p), and satellite TV service (SOR ¶ 1.ii). None of the debts has been paid. (Gx. 3; Gx. 9)

Applicant also owes an unpaid bill for veterinary services (SOR ¶ 1.y), which was placed for collection in 2003. This debt has not been paid. (Gx. 12) Nor has he satisfied a judgment on a debt for \$425 owed to a physical fitness center. (SOR 1.rr) Applicant disputes that debt, claiming he cancelled his membership in 2005 or 2006 but the company kept charging him. (Tr. 166 - 167)

Applicant has never been married, but has sole custody of his four-year-old child. He won custody through legal proceedings, but has been unable to pay for his legal fees. His attorney referred the matter to a collection agency to recoup \$4,391 in unpaid fees (SOR ¶ 1.k), but the debt remains unpaid.

In March 2008, Applicant enlisted the services of a legal services and debt consolidation firm to both negotiate on his behalf with his creditors and to consolidate payments of his outstanding personal debts. He has been paying approximately \$394 each month into a fund that will be used to pay down his debts based on settlements negotiated by the firm. To date, no payments have actually been made to his creditors from the fund. (Attachments to Applicant's Response to the SOR; Ax. A; Tr. 156 - 160; Ax. D)

Applicant has been arrested three times. (Gx. 10) In November 2000, Applicant was working as a doorman/bouncer at a local bar. One evening, he had to remove several patrons who were drunk and unruly. They, in turn, attacked him and he defended himself. The patron later swore a warrant against Applicant, who was arrested

⁴ SOR 1.jj is a duplicate of the debt listed in SOR ¶ 1.ii (Tr. 84)

and charged with felonious assault. (SOR ¶ 2.a) The charges were eventually dismissed and Applicant agreed to help with the complainant's medical costs. In June 2002, Applicant was arrested and charged with simple assault and battery after a domestic argument with his then-girlfriend, who also obtained a protective order against him. (SOR ¶ 2.b) The assault charge was later dismissed, but the protective order remained in place. Two months later, Applicant got into a fight with his ex-girlfriend's new boyfriend and was charged with violating a protective order and simple assault and battery. (SOR ¶ 2.c) The assault charge was dismissed, but he was convicted of violating the protective order, a misdemeanor offense. Applicant was ordered to have no contact with his ex-girlfriend for three years. (Tr. 123 - 127)

When Applicant submitted his e-QIP in June 2007, he answered "no" in response to questions under e-QIP section 23. Those questions asked if he had been arrested, charged or convicted of a firearms or explosives offense (23.b) or any offense related to drugs or alcohol (23.c), or, in the preceding seven years, any other offense, including violations of the Uniform Code of Military Justice (23.d and 23.e). By his answers, he omitted his two arrests in 2002 and 2002. (SOR ¶ 3.a) Further, by answering "no" to question 23.a, which asked if he had ever been arrested, charged or convicted of a felony offense, he omitted his arrest for felonious assault in 2000. (SOR ¶ 3.b) Applicant contended he thought he only had to list those offenses for which he was actually convicted. He also averred he was careless in reading the questions and may not have understood them. (Answer to SOR; Tr. 72, 130 - 134) As to his misdemeanor conviction for violating a protective order, he testified he did not realize he had been convicted and that he thought the court's only action was to order him to stay away from his ex-girlfriend. (Answer to SOR; Tr. 127 - 129)

Applicant's current income is steady, especially when compared to the irregular nature of his work as an independent consultant before April 2007. When he was hired by his previous defense contractor employer, he earned about \$55,000. When hired by another defense contractor, his annual salary increased to about \$85,000. (Tr. 148 - 149) In his current job, Applicant is paid about \$3,500 after taxes each month. He also receives \$300 each month in child support from the child's mother. After deducting expenses, including the monthly payments to his debt consolidation plan, he realizes about \$200 left over each month. (Tr. 110 - 113)⁵

Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the Revised Adjudicative Guidelines (AG).⁶ Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the new guidelines. Commonly referred to as the "whole person" concept, those factor are:

⁵ Applicant asserted at hearing he had as much as \$500 left each month after expenses, but he did not explain the basis for his claim. (Tr. 114)

⁶ Directive. 6.3.

(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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. In this case, the pleadings and the information presented by the parties require consideration of the security concerns and adjudicative factors addressed under Guideline F (financial considerations), at AG ¶ 18, Guideline E (personal conduct) at AG ¶ 15, and Guideline J (criminal conduct) at AG ¶ 30.

A security clearance decision is intended to resolve whether it is clearly consistent with the national interest⁷ for an applicant to either receive or continue to have access to classified information. The government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the government must be able to prove controverted facts alleged in the SOR. If the government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.⁸

A person who has access to classified information enters into a fiduciary relationship with the government based on trust and confidence. Thus, the government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability and trustworthiness of one who will protect the national interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the government.⁹

⁷ See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁸ See *Egan*, 484 U.S. at 528, 531.

⁹ See *Egan*; Revised Adjudicative Guidelines, ¶ 2(b).

Analysis

Criminal Conduct.

The security concern about Applicant's arrest record, as stated in ¶ AG 30, is: [c]riminal activity creates doubt about a person's judgment, reliability and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

It was alleged in SOR ¶ 2.d that he violated 18 U.S.C. § 1001 by intentionally making false statements to the government through his e-QIP responses. For reasons stated in the discussion of his Personal Conduct (SOR ¶ 3, below), the government's information was insufficient to support this allegation. However, Department Counsel presented sufficient information to show Applicant was arrested and charged with criminal offenses on three occasions between 2000 and 2002. Applicant was actually convicted of one misdemeanor offense, but available information, including his testimony, supports that he did engage in some of the criminal conduct alleged in SOR ¶¶ 2.a - 2.c. Accordingly, the disqualifying conditions at AG ¶ 31(a) (*a single serious crime or multiple lesser offenses*) and AG ¶ 31(c) (*allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted*) apply.

By contrast, the record also supports application of the mitigating conditions at AG ¶ 31(a) (*so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's reliability, trustworthiness, or good judgment*), AG ¶ 31(c) (*evidence that the person did not commit the offense*), and AG ¶ 31(d) (*there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement*). It has been more than five years since Applicant was involved in any criminal activity, all but one of the charges were dismissed, and his circumstances have changed significantly since he was a bouncer or was involved with the girlfriend with whom he was having trouble at the time. Additionally, his lifestyle as a single father, and his recent employment stability support a conclusion he is unlikely to repeat his past behaviors. On balance, Applicant has mitigated the security concerns about his past criminal conduct.

Personal Conduct.

Applicant's personal conduct may be a security concern because, as stated in AG ¶ 15, is that

[c]onduct 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.

The government's information shows he answered "no" to questions about his arrest record, thus omitting his arrests in 2000 and 2002. Gx. 1 reflects he answered the questions as alleged in SOR ¶¶ 3.1 and 3.b; however, to be disqualifying, it must be shown Applicant knowingly intended it as a false answer so as to mislead the government by concealing his financial problems.¹⁰ Because Applicant denied the allegations in SOR ¶¶ 3.a and 3.b, the government bore the burden of "presenting witnesses and other evidence to establish facts that have been controverted." (Directive, Enclosure 3, Section E3.1.14) Other than the e-QIP, the government's case in this regard consisted solely of the Applicant's testimony. Applicant's explanation about his belief he was not actually convicted of a misdemeanor charge in 2002 and that he was required to list only those charges for which he was convicted was credible. Absent any more direct evidence from the government about Applicant's intent at the time he completed his e-QIP, Applicant's explanation was sufficient to refute the SOR ¶ 3 allegations. Accordingly, I conclude this guideline for the Applicant.

Financial Considerations.

The security concern about Applicant's finances, as stated in AG ¶ 18, is that

[f]ailure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The government presented sufficient information to support all of the allegations in the SOR, as amended. However, SOR 1.jj appears to be a duplicate of the \$7,109 debt listed at SOR 1.ii and is resolved for the Applicant. Further, Applicant has paid the debts listed in SOR 1.a, 1.c - 1.e, 1.g and 1.h, which total \$1,360. He also disputed the \$8,068 debt listed in SOR 1.j. Even after subtracting these debts from the total alleged in SOR 1, Applicant owes at least \$26,471 in unpaid debts he has accumulated since 1997. Given the absence of information that might document his dispute with the SOR 1.j creditor, it is more likely that he owes about \$34,539. Accordingly, available information requires application of the disqualifying conditions listed at AG ¶ 19(a) (*inability or unwillingness to satisfy debts*) and AG ¶ 19(c) (*a history of not meeting financial obligations*).

In response to the government's information, Applicant established that his financial problems have been caused, at least in part, by the vagaries of his self-employment status since 1997. He had no medical insurance and was subject to unforeseen circumstances that led to business downturns and inconsistent income. However, the record also shows Applicant's own decision making (lack of incorporation,

¹⁰ See, AG ¶16(a) (*deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*).

failure to properly insure himself and his vehicles, and poor tax reporting and accounting practices) exacerbated his business problems. To his credit, he paid five of his six tax and other municipal debts in 2003 and 2006, and to further correct his problems, Applicant enlisted the services of a firm to set up a consolidation and repayment plan, into which he has been paying his money each month since March 2008.

However, that firm has not yet paid anything toward his obligations. The fact his corrective efforts were delayed by his hospitalization in October 2007 is insignificant when compared with the fact he has repeatedly failed to meet his financial obligations or try to correct his approach to his finances over the preceding 10 years. Aside from the receipts in Ax. B and D, which show he has paid SOR ¶¶ 1.a, 1.c - 1.e, 1.g and 1.h Applicant provided no information to support his claimed disputes with creditors or of other debt payments.

The facts presented here raise security concerns that might be mitigated if he could show his debt problems “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” (AG ¶ 20(a)). Because Applicant's debts remain largely unaddressed and have existed for more than 10 years, this mitigating condition does not apply.

Mitigation may also be found if Applicant's debts arose from circumstances “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.” (AG ¶ 20(b)) There is some merit in Applicant's claim his financial problems were caused by his business problems; however, it is clear from this record that Applicant did not exercise sound judgment in his financial matters and that he did not act in a prudent manner to resolve his financial condition over several years. This mitigating condition does not apply.

Likewise, the mitigating conditions listed at AG ¶ 20(c) (*the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control*), and AG ¶ 20(d) (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*) do not apply. Applicant's debt consolidation and repayment plan may eventually bear fruit, but as presented, it does not constitute a good-faith effort to resolve his finances. Further, Applicant has not established he has corrected the management of his finances sufficiently to preclude future problems that might again raise security concerns. Nor does the mitigating condition at AG ¶ 20(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*) apply. Applicant's claims regarding his disputes with the creditors in SOR ¶¶ 1.j and 1.rr, while plausible, are uncorroborated and the judgments against him for those debts have stood for several years without action by him to resolve them. On balance, Applicant has not mitigated the security concerns about his finances.

Whole Person Concept.

I have evaluated the facts presented and have applied the appropriate adjudicative factors under Guidelines E, F, and J. I have also reviewed the record before me in the context of the whole person factors listed in AG ¶ 2(a). Applicant is 31 years old and has spent most of his adult life in business for himself. He is a bright, hard-working individual who is completely dedicated to the care of his young child and to advancing his professional career. However, the favorable information in his background is insufficient to overcome the security concerns about his lengthy history of bad debt and poor judgment related thereto. The facts and circumstances of Applicant's finances present an unacceptable risk to the national interest were he to be granted access to classified information. A fair and commonsense assessment¹¹ of all available information bearing on Applicant's finances shows there are still doubts about his ability or willingness to protect the government's interests as his own. Because protection of the national interest is paramount in these determinations, such doubts must be resolved in favor of the national interest.¹²

Formal Findings

Formal findings on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c - 1.e:	For Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g - 1.h:	For Applicant
Subparagraph 1.i - 1.ii:	Against Applicant
Subparagraph 1.jj:	For Applicant
Subparagraph 1.kk - 1.ss:	Against Applicant
Paragraph 2, Guideline J:	FOR APPLICANT
Subparagraph 2.a - 2.d	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a - 3.b	For Applicant

¹¹ See footnote 6, *supra*.

¹² See footnote 9, *supra*.

Conclusion

In light of all of the foregoing, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

MATTHEW E. MALONE
Administrative Judge