



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



In the matter of: )  
)  
) ISCR Case No. 07-18216  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: William O’Neil, Esquire, Department Counsel  
For Applicant: *Pro se*

December 13, 2010

**Decision**

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the testimony, pleadings, and exhibits, I conclude that while Applicant mitigated security concerns under Guideline E, Personal Conduct, he failed to mitigate security concerns under Guideline F, Financial Considerations. His eligibility for a security clearance is denied.

On March 14, 2007, Applicant executed an Electronic Questionnaire for Investigations Processing (e-QIP). On July 7, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct. DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense for SORs issued after September 1, 2006.

On July 27, 2010, Applicant answered the SOR in writing and elected to have a decision on the record in lieu of a hearing. Pursuant to subsection E3.1.7. of Enclosure

3 (Additional Procedural Guidance) of the Directive, the Government requested a hearing in the matter. The case was assigned to me on August 20, 2010. Applicant was overseas on business travel and was not available for a hearing until the first week of November 2010. He and Department Counsel agreed that his hearing would be held November 1, 2010. The hearing was held, 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 introduced 10 exhibits, which were marked Ex. 1 through 10 and admitted to the record without objection. Applicant testified and called no witnesses. He offered five exhibits, which were marked as Ex. A through E and admitted without objection. At the conclusion of the hearing, at Applicant's request, I left the record open for one week, until close of business November 8, 2010, so that he could provide additional information for the record. Applicant timely submitted two additional exhibits, which were marked as Ex. F and G and admitted without objection.<sup>1</sup> DOHA received the transcript (Tr.) of the hearing on November 9, 2010.

### **Procedural Matters**

The notice of hearing was dated October 4, 2010. Applicant received the notice of hearing when he returned from overseas travel approximately five days before his hearing. However, he stated at his hearing that he had known about the hearing "two or three weeks ago." He was apprised of subsection E3.1.8. of Enclosure 3 of the Directive, which states that an "applicant shall be notified at least 15 days in advance of the time and place of hearing. . . ." I discussed the issues of notice and waiver with Applicant. Applicant stated affirmatively that he believed he had sufficient time to prepare for his hearing. (Tr. 16-18.)

### **Findings of Fact**

The SOR contains five allegations of disqualifying conduct under AG F, Financial Considerations (SOR ¶¶ 1.a. through 1.e.), and one allegation of disqualifying conduct under AG E, Personal Conduct (SOR ¶ 2.a.). In his Answer to the SOR, Applicant admitted four Guideline F allegations (SOR ¶¶ 1.a., 1.b., 1.c., and 1.e.) and denied one (SOR ¶ 1.d.). He denied the Guideline E allegation (SOR ¶ 2.a.). Applicant also provided additional information in his Answer. At the hearing, the Government withdrew SOR allegation 1.d. Applicant's admissions are admitted as findings of fact. (Answer to SOR; Tr. 24-25.)

Applicant is 46 years old and employed by a government contractor. He has held a security clearance for approximately 20 years. He is a high school graduate, served in the U.S. military from December 1982 until March 1986, and received an honorable discharge. He has never been married. He has a 20-year-old son. He lives alone in a

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<sup>1</sup> The Government's memorandum transmitting Applicant's post-hearing submissions is identified in the record as Hearing Exhibit (HE) 1.

house that belonged to his grandmother, who is deceased.<sup>2</sup> He pays \$400 each month on a mortgage equity loan on the property, which was taken out by his grandmother before she died. Additionally, he pays approximately \$2,400 in taxes on the property every six months. In his two financial statements, Applicant claims the house as an asset worth \$450,000. (Ex. 1; Ex. 2 at 7; Ex. 4 at 4-5; Tr. 64-65, 71-72, 90-92.)

As a government contractor, Applicant has been assigned to work for a federal executive department for approximately 19 years. His work has taken him to over 30 countries. His overseas assignments usually last from two weeks to three months. When his employer has no assignments for him and he remains in the United States, he receives approximately \$800 a month in "states pay." (Ex. 2 at 8; Tr. 69-70, 76, 84-85.)

Applicant estimated that his yearly income was approximately \$60,000 to \$70,000. He admitted several financial delinquencies in his Answer to the SOR. His credit reports reflect that he purchased an automobile on credit in September 2005. The date of last activity on the account was January 2006. The SOR alleged at ¶ 1.a. that a delinquency of approximately \$10,560 had been charged off and remained unpaid as of July 2010. In supplementary information attached to his Answer to the SOR and in his personal subject interview, Applicant identified the debt as an automobile repossession which occurred in March 2006. In an affidavit signed on March 8, 2010, Applicant acknowledged the debt. He stated that he was not aware of the debt because the debtor contacted him at an old address. As a post-hearing submission, Applicant provided a copy of a letter, dated November 1, 2010, from the creditor's agent reporting that the delinquent debt had increased to approximately \$19,762. The agent further acknowledged that Applicant had agreed to a payment plan, beginning on November 8, 2010, whereby Applicant would remit \$200 a month for a year. The creditor further stated that Applicant's account would be reviewed in November 2011 to determine a payment increase on the account. (Ex. 3 at 5; Ex. 6; Ex. 8; Ex. 9; Ex. 10; Ex. A; Ex. G; Tr. 61, 73-74.)

In May 2005, one of the friends Applicant made during his military service contacted him for assistance. The friend and his wife were facing foreclosure of their home. Because he felt close to the friend and thought of him as a brother, Applicant agreed to help him by purchasing the home, and his friend promised to make the monthly payments to the mortgage lenders. Applicant took out two mortgages on the property. The first mortgage was for \$406,000, with a monthly mortgage payment of approximately \$3,000 a month. The second mortgage was for \$101,000, with a monthly payment of approximately \$1,200. (SOR; Ex. 8; Ex. 4 at 1; Ex. E at 1; Tr. 39.)

Applicant was working overseas when the friend contacted him. In order to complete the transaction necessary for him to purchase the property and assume the two mortgages, Applicant requested unscheduled leave to return to the United States.

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<sup>2</sup> When asked if he owned his grandmother's house in the city where he lives, Applicant replied: "It's my family house, the house I grew up in so it's pretty much everybody's house, you know, just the house I live in now." (Tr. 72.)

His supervisor tried to persuade Applicant not to leave his work site overseas. Applicant persisted, and the supervisor allowed Applicant to return to the United States. (Tr. 56.)

Applicant then returned to the United States to complete the transaction necessary to purchase the house from his friend. However, the process took longer than he had anticipated, and his return to his job location overseas was delayed. He told his supervisor of the delay. Then, he missed his flight back. When he informed his supervisor that he would be further delayed because he had missed his flight, the supervisor told him he was being replaced and his replacement was already on the job in the foreign country. (Tr. 57.)

Applicant remained at his home in the United States for an additional two days. He then flew overseas to his job site to pick up his belongings. When he arrived there, he found that his replacement, a co-worker, had been assigned to take his place and arrived at the job site on the same day as he did. He concluded that the supervisor lied to him about his replacement being already on the job. He decided he did not want to work for the company any longer. He sought other employment. The employer reported in a business record that Applicant had been terminated from his position for failure to report for duty. (Ex. 7; Ex. E; Tr. 44-47, 56-57.)

A few months passed, and Applicant received notice that his friend had fallen behind in making monthly payments on the two mortgages. Applicant contacted his friend, who explained that he and his wife had some financial problems but would make up the late payments. However, the friend fell behind again in paying the mortgages. As the owner of the property, Applicant received notice that the mortgage holders were seeking foreclosure. Applicant hired an attorney and began an eviction action against his friend. After the friend and his family vacated the property, Applicant made necessary repairs and listed the property for sale. However, the property went into foreclosure. The property sold for approximately \$396,000 after foreclosure in 2007. The SOR alleges at ¶ 1.b. that Applicant was responsible for a past due amount on the first mortgage of \$4,364, that the total amount of the loan balance at foreclosure was \$399,602, and that the debt remained unpaid. The SOR alleges at ¶ 1.c. that Applicant was more than 120 days past due on the second mortgage debt of \$101,377, and as of the date of the SOR, the debt remained unsatisfied. (SOR; Ex. 3; Ex. 4; Tr. 77-78.)

Applicant is responsible for approximately \$100,000 in unpaid debt related to the foreclosure and sale of the property. Neither Applicant nor his attorney has contacted the mortgage holders to ascertain whether they are seeking a deficiency judgment against him for the unsatisfied mortgage debt. Applicant reported that his attorney told him he should be prepared to pay the deficiency if the mortgage holders demanded it. Applicant stated that if the mortgage holders approached him with a payment demand, he would pay it. (Tr. 78-80.)

The SOR alleged at ¶ 1.e. that Applicant owed a \$1,906 debt, in collection status, to a cell phone company. In an affidavit, Applicant admitted the debt, which he had settled for \$762.72 in September 2009. He further stated that the debt had been

delinquent for about two years before he settled it. As a post-hearing document, he provided a letter from a successor creditor in response to his dispute of the debt. The successor creditor stated that the account had been closed, and it would take no further collection action. The successor creditor also advised Applicant that it would provide this information to the credit reporting agencies. (Ex. 4 at 3; Ex. F; Tr. 80-82.)

Applicant reported a total net income of approximately \$4,400 a month when he is assigned overseas.<sup>3</sup> In a financial statement prepared on December 22, 2009, he reported \$1,415 in monthly expenses, divided as follows: groceries: \$300; clothing: \$150; utilities: \$200; life and other insurance: \$115; medical: \$50; child support: \$400; and miscellaneous: \$200. He reported monthly debts as follows: \$600 on the approximately \$3,000 remaining on the home loan he assumed after his grandmother's death; one credit card payment of \$40 on a total debt of \$250, and a second credit card payment of \$150 on a total debt of \$5,000. Applicant's monthly debt payments total \$790. With these calculations, it would appear that Applicant has a monthly remainder of \$2,195.<sup>4</sup> (Ex. 2 at 8.)

In a financial statement prepared in conjunction with an affidavit he signed on December 17, 2009, Applicant reported an annual income of \$60,000 to \$70,000. He listed total debts and expenses each month of \$1,900. He listed the following assets: 401K account: \$20,000; checking account: \$300; savings account: \$1,000; and home: \$450,000. (Ex. 4 at 5.)

In his December 23, 2009, financial statement, Applicant listed the following assets: real estate: \$450,000; bank savings: \$2,000; and stock/bonds: \$10,000. Applicant has not had financial counseling. (Ex. 2 at 8; Ex. 4 at 5.)

Applicant completed an e-QIP on March 14, 2007. Section 22 on the e-QIP asked the following questions about Applicant's employment record:

Has any of the following happened to you in the last 7 years:

1. Fired from a job.
2. Quit a job after being told you'd be fired.
3. Left a job by mutual agreement following allegations of misconduct?

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<sup>3</sup> It is unclear if the \$4,400 figure is gross or net pay. Applicant provided the following explanatory statement: "My take home pay [varies] because I'm a contractor[,] so when I'm overseas my pay is about \$4400 monthly. Sometimes when I'm out for a month or so, most of the time it's just for a month maybe longer, but not often. When I'm home in the states I get states pay in which it's about \$400 dollars every 2 weeks, \$800 monthly." His financial statements do not show deductions from gross pay. (Ex. 2 at 8.)

<sup>4</sup> Applicant acknowledged that his income was not regular, and he needed to save money to support himself between assignments. (Ex.4 at 4.)

4. Left a job by mutual agreement following allegations of unsatisfactory performance?

5. Left a job for other reasons under unfavorable circumstances?

Applicant responded “No” to each of the five questions in Section 22. (Ex. 1 at 23; Tr. 85-88.)

Applicant stated that in 1990, he had been fired from a job as a policeman and had revealed that information on a security clearance application that he had filed afterwards. After an investigation in 1991, he was awarded a security clearance.

In an affidavit he signed on December 17, 2009, Applicant stated:

While [in an overseas country] I requested leave to return to the US for personal reasons. I was granted the leave, but when I was ready to return, I was told that they had already replaced me on that assignment and that I would need to wait for another travel opportunity to deploy. (At this company, we were not salaried and received pay when sent to various overseas assignments.)

(Ex. 5 at 5.)

Applicant stated in his affidavit that he was not informed by the employer that he had been terminated, and he did not resign. In a colloquy with Department Counsel, he stated that if he were to answer Question 5 in Section 22 again, he would answer “Yes.” Question 5 in Section 22 asks if an applicant has “[l]eft a job for other reasons under unfavorable conditions.” He stated he answered “No” to the five questions in Section 22 because he believed he had not been fired, and he did not read the four other questions in Section 22 carefully before responding. The SOR at ¶ 2.a. alleged that Applicant’s failure to list that he was terminated from a job in July 2005 was deliberate. (Ex. 5 at 5; Tr. 66-69, 88.)

## **Policies**

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, and it has emphasized that “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 have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant an applicant’s eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, the administrative judge applies these guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion in seeking a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## Analysis

### Guideline F, Financial Considerations

The security concern under Guideline F, Financial Considerations, is set out in AG ¶ 18:

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

The guideline specifies two security concerns applicable in this case. Under AG ¶ 19(a), an "inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns. Applicant allowed old debt resulting from an automobile repossession in 2006 to accumulate and to remain unsatisfied. He provided documentation showing that, as of November 1, 2010, he had an agreement to pay the creditor \$200 a month on the debt, but as of the date of his hearing, he had not yet made any payments. As the result of the property foreclosure in 2007, he is potentially responsible for a \$100,000 deficiency. However, while he stated that he would pay the delinquency debt in response to a demand from the creditor, he has taken no action to inquire if he owes a deficiency. The figures he provided suggest he has a monthly remainder of \$2,195. This evidence is sufficient to raise the disqualifying conditions identified at AG ¶¶ 19(a) and 19(c).

Guideline F enumerates conditions that could mitigate security concerns arising from financial difficulties. Several Guideline F mitigating conditions could apply to the security concerns raised by Applicant's financial delinquencies. Unresolved financial delinquency might be mitigated if it 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)) Additionally, unresolved financial delinquency might be mitigated if the conditions that resulted in the financial problem were largely beyond the person's control, such as 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)) Still other mitigating circumstances that might be applicable include evidence 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 (AG ¶ 20(c)) or the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts. (AG ¶ 20 (d)) Finally, security concerns related to financial delinquencies might be mitigated if "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.” (AG ¶ 20 (e)).

The Government withdrew the allegation at SOR ¶ 1.d. Applicant provided documentation to corroborate his statement that he had disputed the debt alleged at SOR ¶ 1.e., and the successor creditor responded and acknowledged that he no longer owed the debt. Accordingly, SOR ¶¶ 1.d. and 1.e. are concluded for Applicant.

However, the three remaining delinquencies alleged on the SOR continue to raise security concerns. Applicant has a history of financial delinquency which dates to at least 2006, when an automobile he had purchased was repossessed. Between 2006 and 2010, Applicant made no payments on the delinquent debt, which grew from the \$10,560 alleged at SOR ¶ 1.a. to \$19,761. While he reached an agreement with the creditor on November 1, 2010, to begin payment of the delinquent deficiency debt, he had made no payments on the debt as of the date of his hearing. Moreover, he owes a deficiency which occurred when he failed to make payments on the two mortgages securing the property he purchased for his friend, and the property was foreclosed upon and sold in 2007. While Applicant acknowledged he owed a deficiency of approximately \$100,000 on the property, he has taken no action to contact the creditor. He stated he would pay the debt if the creditor came to him with a demand for payment. Applicant’s financial statements suggest he possesses sufficient assets to satisfy these two creditors. His unresolved financial delinquencies do not appear to be the result of a situation beyond his control.

Applicant purchased a home to help a friend in financial distress. However, neither he nor the friend possessed sufficient income to pay the two mortgages on the property, and the property fell into foreclosure. While Applicant provided documentation to corroborate that he had paid the debt alleged at SOR ¶ 1.e., his effort to resolve the debt alleged at SOR ¶ 1.a. was recent. He failed to show a track record of resolving the debt, which had existed since 2006. While he merits partial credit for resolving the debt alleged at SOR ¶ 1.e., he has not addressed the approximately \$100,000 debt that occurred from the foreclosure and sale of the home he had purchased for his friend. He has not had financial counseling. Overall, Applicant did not appear to be attentive to his financial obligations or to have a clear plan for resolving them. I conclude that AG ¶¶ 20(a), 20(b), and 20(c) do not fully apply in mitigation to the facts of Applicant’s case. I also conclude that AG ¶¶ 20(d) and 20(e) apply in partial mitigation to the facts of this case.

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

AG ¶ 15 explains why personal conduct is a security concern:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful

and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

When Applicant completed and certified his e-QIP in March 2007, he answered “No” in response to Question 1 on Section 22, and he failed to report that he had left employment in March 2005 under unfavorable circumstances. At his hearing, he recounted that his employer informed him that he had been replaced in his overseas assignment by another employee. When questioned about his state of mind at the time, Applicant recalled that he did not interpret his employer’s statement to mean that he had been fired. He did acknowledge that he should have responded “Yes” to Question 5 in Section 22 which asked if he had left a job for other reasons under unfavorable circumstances.

The Guideline E allegation in the SOR raises a security concern under AG ¶ 16(a). AG ¶ 16(a) reads: “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.”

Applicant denied SOR ¶ 2.a, which alleged deliberate falsification and failure to report that he had been fired from a job in May 2005. DOHA’s Appeal Board has cogently explained the process for analyzing falsification cases:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant’s intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant’s intent or state of mind at the time the omission occurred. [Moreover], it was legally permissible for the Judge to conclude Department Counsel had established a prima facie case under Guideline E and the burden of persuasion had shifted to the applicant to present evidence to explain the omission.

ISCR Case No. 03-10380 at 5 (App. Bd. Jan. 6, 2006) (citing ISCR Case No. 02-23133 (App. Bd. June 9, 2004)).

Several Guideline mitigating conditions might apply to the facts of this case. Applicant’s disqualifying personal conduct might be mitigated under AG ¶ 17(a) if “the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” If “the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security process” and “[u]pon being made aware of the requirement to cooperate or provide information, the individual cooperated fully and

completely,” then AG ¶ 17(b) might apply. If “the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment,” then AG ¶ 17(c) might apply. If “the information was unsubstantiated or from a source of questionable reliability,” AG 17(f) might apply.

Applicant is a mature adult who has, in the course of his employment in the military and as a government contractor, completed several security clearance applications. When he was fired from a job in 1991, he reported it on a security clearance application he filed shortly thereafter. He denied that he deliberately and willfully falsified his answer to Question 1 of Section 22 on the e-QIP he signed in March 2007.

I thoroughly reviewed the documentary and testamentary evidence in this case. I observed Applicant carefully, and I noted his demeanor and how he responded to questions about answering Question 1 in Section 22 of his e-QIP. I also listened carefully to his responses to questions posed during his security clearance hearing in order to assess his credibility and state of mind. I conclude while AG ¶¶ 17(a) and 17(b) do not apply, AG ¶¶ 17(c) and 17(f) have some applicability in mitigation in Applicant’s case. The terms of Applicant’s employment were unusual, and his employer’s communications with Applicant over his employment status were ambiguous. He was not told directly that he was fired. He did not carefully read the other questions about leaving employment under unfavorable conditions. When he answered “No,” he was stating he had not been fired. I conclude, therefore, that there is insufficient record evidence to conclude that Applicant’s “No” response to Question 1 in Section 22 and his failure to list that he had been fired from a job in July 2005 for failure to report for duty was a willful and deliberate falsification. Applicant did not intend to deceive the Government. Accordingly, I conclude SOR ¶ 2.a. for Applicant.

### **Whole-Person Concept**

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

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

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

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant, a mature adult, assumed liability for considerable debt to help a friend in financial distress who was in danger of losing his home. He did so without financial counseling. When the friend was unable to timely pay the mortgages that Applicant assumed, Applicant lacked sufficient resources to pay them himself. Applicant is indebted for approximately \$100,000 resulting from the foreclosure and sale of the property in 2007. However, while Applicant stated that he would pay the debt if the creditor demanded he do so, he has taken no action to clarify his responsibility for this debt. Additionally, at the time of his hearing, Applicant set up a payment plan for a debt he had owed since 2006, but he had not established a record of payment on the debt because he had not made the first payment under the plan. Thus, significant delinquent debts alleged on the SOR remain unresolved by Applicant's failure to timely address his long-term financial delinquencies.

Overall, the record evidence leaves me with questions and doubts at the present time about Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude that while Applicant's personal conduct was mitigated, he failed to mitigate the security concerns arising from his financial delinquencies.

### **Formal Findings**

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a. - 1.c.:	Against Applicant
Subparagraphs 1.d and 1.e.:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a.:	For Applicant

## **Conclusion**

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

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Joan Caton Anthony  
Administrative Judge