



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



In the matter of:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No.08-11345

**Appearances**

For Government: Daniel Crowley, Esquire, Department Counsel  
For Applicant: *Pro Se*

July 20, 2010

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

**Statement of the Case**

On August 24, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing reasons why DOHA could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken 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 (AGs).

Applicant responded to the SOR on November 14, 2009, and requested a hearing. The case was assigned to me on March 12, 2010, and was scheduled for hearing on April 12, 2010. A hearing was held on the scheduled date. At the hearing, the Government's case consisted of six exhibits (GE); Applicant relied on two witnesses

(including himself) and six exhibits (AE). The transcript (Tr.) was received on April 21, 2010.

### **Procedural Issues**

Before the close of the hearing, Applicant requested the record be kept open to afford him the opportunity to supplement the record with Internal Revenue Service (IRS) payment agreement documentation and documented payment of his debts covered by subparagraphs 1.b and 1.h. For good cause shown, Applicant was granted 14 days to supplement the record. Within the time permitted, Applicant provided copies of his cover letter, an IRS letter confirming his payment agreement with the Service, his son's social security card to document his son's social security number (different from his own), his son's student loan statement and last correspondence regarding his student loan, a statement from his medical provider documenting his payment of the debt covered by subparagraph 1.h, and an updated credit report that shows the debts covered by subparagraphs 1.b and 1.h to bear zero balances. Applicant's exhibits are admitted as AEs G through L.

### **Summary of Pleadings**

Under Guideline F, Applicant is alleged to have (a) accumulated 15 delinquent debts exceeding \$28,000; (b) incurred a judgment in October 2006, in the amount of \$20,000; and (c) entered into a repayment agreement with a debt consolidation firm in September 2007.

Under Guideline E, Applicant is alleged to have falsified the security clearance application (e-QIP) he completed in April 2008 by omitting his (a) repossessed vehicle, (b) his IRS lien, and (c) his \$20,000 student loan judgment. He is also alleged to have deliberately failed to disclose his consolidation repayment agreement with F services in his June 2008 interview with an investigator from the Office of Personnel Management (OPM).

In his response to the SOR, Applicant admitted some of the allegations pertaining to his finances, but denied others. He claimed the listed adverse student loan judgment belonged to his son, not himself. He denied other allegations (including all of the medical claims) because they were erroneously attributed to him. He claimed to have a number of the medical claims (subparagraphs 1.j through 1.o) removed from his credit report. Applicant admitted to some of his omissions (his car repossession, his IRS lien, and his debts over 180 and 90 days delinquent, respectively), but denied the allegation of omitting his son's judgment. He never admitted any deliberate e-QIP omissions, and denied any intent to omit his consolidation repayment agreement in his OPM interview.

### **Findings of Fact**

Applicant is a 56-year-old engineer specialist for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are adopted as relevant and material findings. Additional findings follow.

Applicant married his wife in August 1977. GE 1. They have six sons and two daughters from their marriage, who range in ages from 33 to 16. See GE 1.

Applicant was born and raised in Belize. He immigrated to the United States (U.S.) and became a naturalized U.S. citizen in 2005. See GEs 1 and 5). He retains his Belize citizenship and is a dual citizen of the U.S and Belize. Applicant attended college for two years between July 1996 and December 1998 and earned a degree.

Between January 1999 and February 2004, Applicant worked for a public utility company in an engineering capacity. GE 1. He was laid off in February 2004 and was out of work for over a year. Tr. 39, 44-45. He worked in a full-time capacity as an engineer between February 2005 and December 2006 before returning to the same utility company he previously worked for in 2004. GE 1. Between January 2007 and the present, he has been employed as an engineering specialist for this utility company. See GE 1.

### **Applicant's finances**

When Applicant was laid off from his full time job in 2004, it was his first layoff since 1982. Tr. 44-45, 50. His oldest son was laid off about the same time. Tr. 45, 49-50. Applicant and his son were unemployed for over a year between 2004 and 2005. Tr. 51. His wife left school to go to work to provide additional financial support for the family. Applicant withdrew \$50,000 from his 401(k) to cover his bills. Tr. 51. This resulted in his owing over \$10,000 in taxes and penalties. See GE 4.

Applicant offered the IRS \$3,800 to settle his tax debt with the IRS and was declined. Tr. 83-85 Following his unsuccessful efforts to work out a compromise with the IRS, the Service filed a tax lien in February 2008 in the amount of \$16,332 to cover back taxes owed the IRS for the tax year of 2008. See GEs. 2 and 6. Applicant has since worked out an installment payment plan with the IRS. Under the terms of his February 2010 plan with the Service, Applicant is required to make monthly payments of \$183, beginning April 2010, and to continue with the payments until the entire tax debt is satisfied. See AEs C and H; Tr. 84-85.

Besides his IRS debt, Applicant accrued a deficiency debt from an old truck lease. In 2004, Applicant co-signed for his son's lease of a used truck. Tr. 106. See GE 4. His son was involved in an accident with the truck in December 2007. Tr. 75. After the accident, his son received medical treatment for severe brain trauma from which he has not fully recovered. Tr. 41-42. Unable to work, his son was laid off from his job. Applicant remains jointly and severally responsible for the truck lease obligations.

In December 2004, both Applicant and his son were unemployed and behind in their truck lease payments. Efforts to stretch out the payments on the truck were unsuccessful, and the truck was repossessed from a local repair shop in January 2005. See GE 4; Tr. 88-89. After allowing for credits for the sale of the truck, Applicant and his son were billed for a \$7,642 deficiency. With accrued interest on the deficiency, the debt increased to \$8,597. Applicant has since entered into a payment plan with the truck

lease assignee (creditor 1.g) that requires monthly payments of \$95. See AE. D; Tr. 95-100. Other vehicles noted on his credit reports have been paid off. See GEs 2 and 6; Tr. 90-97.

Applicant disputes most of the other debts listed in the SOR. The largest of his disputed debts is creditor 1.c's \$20,651 judgment that it obtained in October 2006. See GEs 2 and 6; Tr. 74-75. Applicant claims that the judgment debtor is his son, who bears the same name and obligated himself for the student loan without Applicant's assistance or co-signing. GE 1; Tr. 73-77.

To corroborate his claim that the listed judgment concerns his son, and not himself, Applicant furnished documentation of his son's social security number and loan repayment schedule that bear his son's social security number. See AE I. This identified social security number differs from Applicant's social security number that is cited in his credit reports. GEs. 2 and 6. Creditor 1.c's judgment has been deleted from Applicant's most recent credit reports. AEs F and L.

Considered together, Applicant's assurances and written proofs are sufficient to warrant inferences the judgment covered by subparagraph 1.c of the SOR is erroneously attributable to Applicant. See AEs J through L.

Applicant's disputed medical debts are covered by subparagraphs 1.d and subparagraphs 1.h through 1.o. These listed debts exceed \$4,000. Applicant assures he paid one of these listed debts (creditor 1.h) and disclaims any knowledge of the remaining ones before he received the SOR in August 2009. Tr. 80. He disputed these remaining medical debts (creditors 1.i through 1.o) in writing and received confirmations from the credit reporting agency of its intention to delete these accounts from his credit report. See AEs E and F; Tr. 103-05. These medical debts do not appear in Applicant's most recent credit reports. See AEs F and L. Applicant's explanations are sufficient to accept his claims that these medical debts do not belong to him.

Applicant also disputed some of his smaller debts that he claimed to have either paid or doesn't recognize: 1.a, 1.b, 1.e, and 1.f. See AE F; Tr. 69-72. He characterized these small bills on his credit reports as billing errors. Tr. 69-72.

In September 2007, Applicant entered into a consolidated repayment agreement with F Services to repay his delinquent debts. See GE 5. Under the terms of his agreement, Applicant pays F Services \$435 a month for disbursements to his identified creditors and expects to complete the payments covered by his F Services agreement within 18 months. Tr. 105. These creditors are identified in Applicant's supplied disbursement summary (see AE 5) and are reflected in current status in his most recent credit reports. See AEs F and L.

### **Omissions**

Asked to complete an e-QIP in April 2008, Applicant answered "no" to all of the questions covered by sections 27 and 28 of the questionnaire. See GE 1. In answering

“no” to the questions, he omitted the repossession of the vehicle he co-signed for to facilitate his son’s lease, the federal tax lien that the IRS filed against Applicant’s property in February 2008, his son’s state judgment, and his debts over 180 delinquent within the previous seven years, and currently 90 days delinquent, respectively.

Applicant admitted each of his omissions, but denied any intention to mislead the Government. He attributed his truck repossession omission to confusion and oversight. Tr. 106-07 He assured he had not received the notice from the lender confirming the repossession and the deficiency balance and did not know whether there was any deficiency from the public sale of the vehicle. Tr. 105-06. It is his understanding that the repossession and deficiency notice went to his son, who co-signed for the truck lease.

Addressing his omission of the state judgment owned by creditor 1.c, he claimed the judgment involved his son and not himself. He has never seen a copy of this judgment and does not believe he ever co-signed for his son’s student loan with the state, or was ever named in the creditor’s complaint or judgment Tr. 107-09.

Applicant attributed his omission of his IRS tax lien in his April 2008 e-QIP to his overlooking it and perhaps confusing it with a lien belonging to his son. Tr. 106-07. He attributed his omissions of his debts over 180 and 90 days delinquent to his belief at the time that he “was pretty current on everything.” Tr. 111.

Applicant’s explanations for his omissions of his medical and other smaller delinquent debts in the e-QIP he executed are plausible and credible, and they are accepted. He disputed most of the listed medical debts (subparagraphs 1.i through 1.o) in the SOR. He is equally persuasive about the real parties to the state judgment that involved his son, and not himself. Applicant is less convincing, though, about his claimed oversight of the IRS lien, and the underlying tax debt, that was filed just two months before he completed his e-QIP. Less credible, too, are his explanations for his failure to acknowledge the repossession of the leased truck he co-signed for his son when answering question 27 of his e-QIP.

Considering the straight-forward nature of the e-QIP questions, and Applicant’s blanket denials of all of the information covered in questions 27 and 28, Applicant cannot be credited with good-faith mistake and confusion over his negative answers to all of the questions. Taking account of his overall reputation for honesty and candor, his omissions of son’s truck repossession, his federal tax lien, and the underlying tax debt cannot be excused.

Unfavorable inferences warrant, accordingly, that his omissions of his leased truck repossession, his federal tax lien, and the underlying tax debt were made knowingly and wilfully. Favorable inferences are warranted only with respect to the omitted state judgment belonging to his son and the remainder of the debts by the SOR.

An OPM investigator scheduled an interview with Applicant in June 2008 to resolve his credit issues. See GE 5. When interviewed by the OPM investigator, Applicant disclosed his IRS lien, his son’s truck repossession, and the status of other

debts listed in his credit report. While the summary of interview makes no reference to any showing of investigative use of credit report information to challenge or confront Applicant about his repossession, liens, and debts, it provide no information to suggest Applicant volunteered all of the details of his tax lien, truck repossession, and the status of his other without assistance from the investigator.

In his 2008 OPM interview, Applicant failed to disclose the details of his F Services agreement. AE 5. Applicant recalled discussing the agreement generally in the interview, but none of the details. Tr. 113-19. And there is no specific mention of the F Services agreement in the summary of interview. See GE 5. Albeit, it is briefly referenced in the Government's 2008 credit report. See GE 6. Not until he was specifically asked about his enrollment in his F Services debt consolidation program in interrogatories propounded to him in June 2009 did he acknowledge his enrollment and provide a list of the identified creditors participating in the program. See GE 5.

Considering all of the circumstances surrounding Applicant's OPM interview, his explanations of his brief reference of his F Services agreement, and his later-supplied list of creditors in current status in the program, no adverse inferences of material omission are warranted. While his discussion of his F services agreement with the interviewing OPM agent could have certainly been more revealing and complete, there is no probative evidence of an intentional omission in his explanations. Both his agreement and his payment progress with the identified creditors reflect positive efforts to address his creditors, and not information he might want to conceal from the Government. Favorable inferences warrant with respect to the allegation covered in subparagraph 2.f.

### **Endorsements and evaluations**

Applicant is well regarded by his supervisors and coworkers who are familiar with his engineering work. See AE A; Tr. 35-41. His division manager credited him with trustworthiness, honesty, dependability, courtesy, and strong work habits in all of the projects he has tasked him to complete. AE A. His first-line supervisor (who also serves as his employer's facility security officer) characterizes Applicant as an outstanding employee. Tr. 36. This first-line supervisor works with Applicant on a daily basis and has consulted with him from time to time on his finances. Tr. 37, 42

Applicant's coworker, who wrote on his behalf, supports Applicant's clearance application. He credits Applicant with being very honest, diligent, and hardworking. AE A. Applicant has received excellent performance evaluations for his 2009 rating period. See AE B.

### **Policies**

The AGs list guidelines to be used by administrative judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include "[c]onditions that could raise a

security concern and may be disqualifying” (disqualifying conditions), if any, and many of the “[c]onditions that could mitigate security concerns.” These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c)

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) of the revised AGs, which are intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant’s life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant’s conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors: (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.

Viewing the issues raised and evidence as a whole, the following adjudication policy concerns are pertinent herein:

### **Financial Considerations**

*The Concern:* 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. Compulsive gambling is a concern as it may lead to financial crimes including espionage. Affluence that cannot be explained by known sources of income is also a security concern. It may indicate proceeds from financially profitable criminal acts. Adjudication Guidelines (AG), AG ¶ 18.

### **Personal Conduct**

*The Concern:* Conduct involving questionable judgment, untrustworthiness, unreliability, 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. AG, ¶ 15.

### **Burden of Proof**

Under the Directive, a decision to grant or continue an Applicant's request for a security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) It must prove by substantial evidence any controverted facts alleged in the SOR; and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required showing of material bearing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, consideration must take account of cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the burden of proof shifts to the applicant for the purpose of establishing his or his security worthiness through evidence of refutation, extenuation or mitigation of the Government's case. Because Executive Order 10865 requires that all security clearances be clearly consistent with the national interest, "security-clearance determinations should err, if they must, on the side of denials." See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

### **Analysis**

Applicant is a respected employee of a defense contractor who accumulated a vehicle repossession, IRS lien, and a number of delinquent debts during his extended periods of recurrent unemployment. He has been able to resolve most of his debts by either paying them off in full or establishing repayment arrangements with the creditors. Other listed debts he has successfully disputed and resolved favorably. Still, his past financial difficulties raise some security concerns.

Besides initial security concerns over Applicant's finances, some concerns are raised, too, over his e-QIP omissions and his failure to provide more details about his F Services agreement when subsequently interviewed by an OPM agent.



## Financial concerns

Applicant's accumulated debt delinquencies (which include a large deficiency balance on a repossession and an IRS tax lien) warrant the application of two of the disqualifying conditions (DC) of the financial consideration guideline: DC ¶ 19(a), "inability or unwillingness to satisfy debts," and DC ¶19(c) "a history of not meeting financial obligations."

To be sure, Applicant's payment history to date is quite recent and modest. He has a repayment agreement with F Services that has been in place for some time. This agreement covers a host of creditors who are not included in the SOR and reflect current debts in his most recent credit reports. Applicant is current with his debt consolidation program and has made good progress in maintaining these accounts in current status, while addressing his older debts.

Addressing his listed debts, Applicant has repayment agreements in place with F Services, the IRS (creditor 1.f), and creditor 1.g, and has either paid or successfully disputed his remaining debts (inclusive of the state judgment that rightfully names his son as the responsible defendant). True, he has just prepared to make his first IRS payment under the installment agreement he completed with the Service in February 2010, and he has made only a few payments to the collection agency for the lender who repossessed his son's vehicle in 2005. But the agreements reflect earnest commitments on Applicant's part to address his debts with the limited resources he has available to work with his creditors.

Evaluating all of his repayment efforts contextually, and given his burdensome family responsibilities and unemployment history (through no fault of his own), Applicant may be credited with serious, good-faith efforts to resolve his debts and regain control of his finances. His progress to date in regaining control of his finances, while modest, is encouraging, and a reflection of a good deal of work on his part to resolve his listed delinquencies.

Based on his evidentiary showing, Applicant's proofs are sufficient to establish considerable extenuating circumstances associated with his debt accumulations. As a result, MC ¶ 20(b) of the financial considerations guideline, "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, and the individual acted responsibly)," has application to Applicant's circumstances.

Applicant's repayment efforts entitle him to mitigation credit under both MC ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," and MC ¶ 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." These mitigating conditions have partial application to Applicant's situation, given his tight financial circumstances over the past few years.

To be sure, Applicant could have exerted more responsible efforts in addressing his debts once the conditions (*i.e.*, recurrent unemployment) that contributed to the delinquencies had passed or eased, and his finances had improved. See ISCR Case 03-01059 at 3 (App. Bd. Sep. 24, 2004). Records show that he has been continuously employed with his employer since January 2007. In balance, though, he has shown good-faith in addressing his debts since he returned to full-time employment with his current employer.

Holding a security clearance involves a fiduciary relationship between the Government and the clearance holder. Quite apart from any agreement the clearance holder may have signed with the Government, the nature of the clearance holder's duties and access to classified information necessarily impose important duties of trust and candor on the clearance holder that are considerably higher than those typically imposed on government employees and contractors involved in other lines of government business. See *Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980). Failure of the applicant to make concerted efforts to pay or resolve his debts when able to do so raises security-significant concerns about the sufficiency of the applicant's demonstrated trust and judgment necessary to safeguard classified information.

Whole-person assessment enables Applicant to surmount the judgment questions raised by his accumulation of a repossession deficiency, an IRS tax lien, and delinquent debts. His positive endorsements from his supervisors and co-worker merit considerable praise and commendation. On balance, he has shown sufficient tangible effort in addressing his major repossession delinquency, tax obligations, and other accounts to mitigate his listed delinquent debts and credit him with restored control over his finances.

Taking into account all of the extenuating facts and circumstances surrounding Applicant's debt accumulations, the limited resources he has had to address them, and the earnest steps he has mounted to address his old debts, and his current ones through debt consolidation, safe predictive judgments can be made about Applicant's ability to repay his accrued debts and restore his finances to stable levels commensurate with his holding a security clearance. Favorable conclusions warrant with respect to the allegations covered by subparagraphs 1.a through 1.p.

### **Personal conduct concerns**

Security concerns over Applicant's judgment, reliability and trustworthiness are initially raised under Guideline E as the result of his omissions of his vehicle repossession, his IRS lien, and his debts over 180 and 90 days delinquent in the e-QIP he completed in April 2008. By omitting this financial information, Applicant failed to furnish materially important background information about his debts that was needed for the Government to properly process and evaluate his security clearance application. Applicant successfully demonstrated that the state judgment bearing his name rightfully covered his son, and perforce belongs to the son. As a result, this judgment did not need to be reported on his e-QIP.

Despite some Applicant claims of confusion about the status of the leased truck repossession and the tax lien covering his delinquent taxes, his omissions of the repossession, tax lien, and underlying tax debt are imputed to have been knowingly and wilfully made by Applicant to shield important background information from the Government. These conclusions are based on a full review of all of the evidence and circumstances surrounding Applicant's completion of his e-QIP. Only his omission of his medical and smaller debts may be properly characterized as good-faith mistakes.

Based on the adverse inferences of deliberate omission that are drawn from Applicant's omissions of his IRS tax lien, truck repossession, and underlying tax debt from his April 2008 e-QIP, DC ¶ 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," has application to Applicant's situation.

In a follow-up interview with an OPM investigator two months later, Applicant disclosed his vehicle repossession, the identity and circumstances of his IRS lien and underlying tax debt, and his other listed debts. Whether Applicant made his disclosures voluntarily or with the help of a credit report supplied by the OPM agent cannot be determined from the interview summary itself.

When presented with evidence of an applicant's being confronted with adverse information about his finances, the Appeal Board has held that it is then too late to receive mitigating credit under AG ¶ 17(a). See ISCR Case No. 05-10921 at 4 (App. Bd. April 19, 2007); ISCR Case No. 02-30369 at 5 (App. Bd. Oct. 27, 2006). It is an applicant's affirmative burden to demonstrate he undertook prompt, good-faith efforts to correct his omissions, and not the Government's.

For Applicant to be able to take full advantage of MC ¶ 17(a), "the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts," it was incumbent upon him to establish convincingly that he promptly volunteered the omitted information about his finances. From the developed record, Applicant has not carried his affirmative burden with probative evidence he corrected his omissions promptly and voluntarily.

Applicant does carry his burden, though, in demonstrating his omission of his F Services agreement from the information he disclosed in his OPM interview was not intentional. Because Applicant's failure to provide more details about his F service agreement was non-intentional and did not entail any effort to mislead the OPM investigator, the falsification allegations covered in the SOR that pertain to this omission are unsubstantiated.

In evaluating all of the circumstances surrounding Applicant's e-QIP and OPM omissions, his ensuing corrections, and his hearing explanations, his explanations are insufficient to enable him to convincingly refute the deliberate falsification allegations with respect to the repossession of the leased truck, his IRS lien, and the underlying IRS

debt. Overall, Applicant's omission explanations are not persuasive. And, probative evidence of prompt, good-faith corrections of omitted information is lacking. Conclusions warrant, accordingly, that the omission allegations against him concerning the repossession, tax line, and underlying tax debt are proven and not mitigated.

Taking into account all of the evidence produced in this record, unfavorable conclusions warrant with respect to the Guideline E allegations that Applicant knowingly and wilfully omitted his leased vehicle repossession, his IRS lien, and his delinquent tax debt over 180 and 90 days delinquent, respectively, from his April 2008 e-QIP. Favorable conclusions warrant with respect to his alleged omitted state judgment and his withholding of his F Service agreement from the OPM investigator who later interviewed him.

In reaching my decision, I have considered the evidence as a whole, including each of the factors and conditions enumerated in ¶ 2(a) of the AGs.

### **Formal Findings**

In reviewing the allegations of the SOR in the context of the findings of fact, conclusions, and the factors and conditions listed above, I make the following separate formal findings with respect to Applicant's eligibility for a security clearance.

GUIDELINE F (FINANCIAL CONSIDERATIONS):	FOR APPLICANT
Subparas 1.a through 1.p :	For Applicant
GUIDELINE E (PERSONAL CONDUCT):	AGAINST APPLICANT
Subparas 2.a, 2.b, and 2.d through 2e:	Against Applicant
Subparas. 2.c and 2.f:	For Applicant

### **Conclusions**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's security clearance. Clearance is denied.

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Roger C. Wesley  
Administrative Judge



