



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



In the matter of:)	
)	
)	ISCR Case No. 09-05986
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah A. Minster, Esquire, Department Counsel
For Applicant: *Pro se*

August 13, 2010

Decision

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the case file, pleadings, and exhibits, I conclude that Applicant failed to rebut or mitigate the Government's security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct. His eligibility for a security clearance is denied.

On February 11, 2008, Applicant completed and certified an Electronic Questionnaire for Investigations Processing (e-QIP). On February 11, 2010, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct. 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 (AG) implemented on September 1, 2006.

On February 19, 2010, Applicant provided an answer to the SOR. On March 31, 2010, DOHA sent Applicant a letter requesting a complete response to the SOR. On

April 8, 2010, Applicant replied with a signed and notarized response, admitting or denying each allegation in the SOR and providing additional information. He also requested that his case be determined on the record in lieu of a hearing. The Government compiled its File of Relevant Material (FORM) on May 11, 2010. The FORM contained documents identified as Items 1 through 17. By letter dated May 13, 2010, DOHA forwarded a copy of the FORM to Applicant, with instructions to submit any additional information and/or objections within 30 days of receipt. Applicant received the file on May 18, 2010. His response was due on June 17, 2010. Applicant did not file any additional information within the required time period. On July 19, 2010, the case was assigned to me for a decision.

Findings of Fact

The SOR contains 21 allegations of disqualifying conduct under AG F, Financial Considerations (SOR ¶¶ 1.a. through 1.u.), and six allegations of disqualifying conduct under AG E, Personal Conduct (SOR ¶¶ 2.a. through 2.f.). In his Answer to the SOR, Applicant admitted two AG F allegations (¶¶ 1.a. and 1.b.) and denied 19 AG F allegations (¶¶ 1.c. through 1.u.). He denied all six AG E allegations. Applicant's admissions are admitted as findings of fact. (Item 1; Item 5.)

The facts in this case are established by the record provided by the Government. The record evidence includes Applicant's 2008 e-QIP; official court, investigation, and agency records; Applicant's signed affidavits of September 11, 2008 and September 17, 2008; Applicant's responses to DOHA interrogatories;¹ and Applicant's credit reports of March 18, 2009, February 4, 2009, and November 10, 2009. (See Items 6 through 17.)

Applicant is 55 years old, married, and the father of three adult children. Since 2005, he has been employed as a receptionist by a federal contractor. He has a high school diploma and attended a community college for one year. He did not earn a degree. (Item 6.)

From June 1981 until July 2002, Applicant was employed as an operations security specialist with an agency within the Department of Defense (agency). He held a security clearance and eligibility for access to Sensitive Compartmented Information (SCI). (Item 8.)

In August 1983, the agency sent Applicant notice that it intended to deny or revoke his security clearance because of his delinquent financial obligations and a dishonored check. Applicant provided the agency with additional information, and on October 1983, the agency granted Applicant a security clearance. (Item 3; Item 5; Item 14; Item 15 at 4.)

¹Applicant was interviewed by an authorized investigator from the U.S. Office of Personnel Management on April 8, 2008. On October 26, 2009, in response to DOHA interrogatories, Applicant signed a notarized statement affirming that he had read the summary of the interview and found it to be true and correct. He made no changes, corrections, or revisions to the investigator's summaries. (Item 7.)

In March 1994, the agency notified Applicant that it intended to deny his eligibility for access to SCI and to revoke his security clearance because of his ongoing financial delinquencies and failure to file taxes in his state of residence for tax years 1983 through 1987. Applicant responded and provided the agency with additional information. In August 1994, the agency rendered an adjudication in Applicant's favor but advised him that his security clearance was contingent upon his continuing efforts to resolve his past-due taxes and to remain financially solvent. (Item 14; Item 15 at 4.)

In January 2001, the agency notified Applicant that it had made a preliminary decision to revoke his security clearance and eligibility for access to SCI. In a Statement of Reasons, the agency cited security concerns under the financial considerations and personal conduct adjudicative guidelines. Under the financial considerations adjudicative guideline, the agency specified Applicant's failure to file federal income tax returns for tax years 1991, 1992, and 1993; failure to satisfy state and federal tax liens; and failure to pay accounts in collection status. (Item 15 at 4-5.)

The record establishes that on July 24, 2001, the agency revoked Applicant's security clearance and withdrew his eligibility for access to SCI. Applicant resigned from the agency on July 26, 2002. He claimed that he resigned because his agency was moving to a location in another state. However, Applicant's Notice of Personal Action, dated July 26, 2002, contains the following notation: "Agency finding: Resigned after receiving written notice on 24-JUL-2002 of decision to separate for for [sic] failure to maintain a condition of employment (Security Clearance)." (Item 3; Item 16; Item 17 at 1, 3.)

After leaving federal service, Applicant was unemployed until March 2003. From March 2003 until September 2003, he worked as a sales associate for a department store. From September until December 2003, he worked as a document scanner for a private company. From January 2004 until September 2005, he worked as a baker for a food market. Since September 2005, he has worked as a receptionist for his current employer. (Item 6.)

The SOR alleges that Applicant is responsible for delinquent debts totaling \$61,461. (SOR ¶¶ 1.d. through 1.u.) The delinquencies include three judgments (SOR ¶¶ 1.d., 1.i., and 1.r.); three federal tax liens (SOR ¶¶ 1.e., 1.f., and 1.t.); two state tax liens (SOR ¶¶ 1.s. and 1.u.); two delinquent medical debts (SOR ¶¶ 1.g. and 1.h.) four charged-off accounts (SOR ¶¶ 1.j. through 1.m.); and four accounts in collection status (SOR ¶¶ 1.n. through 1.q.). In his answer to the SOR, Applicant denied all financial delinquencies alleged in the SOR. (Item 1; Item 5.)

The SOR alleges that Applicant is responsible for three unpaid federal tax liens: a federal tax lien entered in 1995 for \$17,788 (SOR ¶ 1.f.); a federal tax lien entered in 1998 for \$12,953 (SOR ¶ 1.t.); and a federal tax lien entered in 2000 for \$7,228 (SOR ¶ 1.e.). A Lexis Nexis Public Record search of November 12, 2009 and Applicant's credit bureau reports of March 2008, February 2009, and November 2009 establish that the

three federal tax delinquencies exist and have not been satisfied. (Item 1; Item 10; Item 11; Item 12; Item 13.)

In a personal subject interview in April 2008, Applicant was questioned about his tax liens and other delinquent debts. He acknowledged that, between 1995 and 2000, he did not file his federal income taxes. In 1995, he did not file because he was supporting his own family and also helping to support his brother and mother, who were seriously ill and lacked sufficient funds to pay for their medical care. Applicant asserted that he provided approximately \$200 to \$400 per month to assist his brother and mother during this time. He acquired the extra cash for the support of his mother and brother by increasing his number of withholding allowances. Between about 1997 and 2000, Applicant did not file his federal taxes because he feared he would not be able to pay the amounts required of him. (Item 7 at 3-4; Item 8 at 2.)

In either tax year 1999 or tax year 2000, Applicant filed his federal income tax return. He estimated that when his federal tax delinquencies, including penalties and interest, were calculated, he owed the federal government \$18,000. Applicant asserted that when he learned the amount of his federal tax delinquency, he entered into an agreement with the Internal Revenue Service (IRS) to pay \$200 each month to satisfy his tax delinquency. He further estimated that in April 2008, he owed \$8,000 in delinquent taxes. In April 2010, when he filed his Answer to the SOR, he claimed he had satisfied his tax delinquencies and no longer owed any delinquent federal taxes, interest, or penalties. In his response to DOHA interrogatories and in his answer to the SOR, Applicant attached a letter he received from the IRS, dated June 30, 2008. In the letter, the IRS informed Applicant that he owed \$181.81 in federal taxes for tax year 2007. In his answer to the SOR, Applicant provided a copy of a check for \$181.81, made payable to the IRS and dated September 30, 2008. He failed to provide documentation to establish that the federal tax liens alleged in the SOR had been paid or otherwise satisfied. (Item 3 at 7; Item 5 at 3, 6; Item 7 at 4.)

The SOR also alleges that Applicant is responsible for two unpaid state tax liens: a state tax lien entered in 1994 for \$8,874 (SOR ¶ 1.u.) and a state tax lien entered in 2000 for \$1,778 (SOR ¶ 1.s.). A Lexis Nexis Public Record search of November 12, 2009 and Applicant's credit bureau reports of March 2008 and February 2009 corroborate that the two state tax delinquencies exist and have not been satisfied. (Item 1; Item 10; Item 11; Item 13.)

In his answer to DOHA interrogatories, Applicant provided a letter, dated December 19, 2008, from his state taxing authority notifying him that he owed \$1,083.51 in delinquent taxes. The letter referenced an attached "Detailed Statement of Liabilities," which identified outstanding state tax liabilities. Applicant did not include the attachment in his response to interrogatories. In his answer to the SOR, Applicant provided a notice, dated June 28, 2009, from his state taxing authority informing him that he had overpaid his 2008 state income tax by \$53.47. Applicant failed to provide documentation to establish that the state tax liens alleged in the SOR had been paid or otherwise satisfied. (Item 7 at 19; Item 3 at 10.)

The SOR alleged that Applicant was responsible for an unsatisfied \$1,395 judgment filed against him in 2006 (SOR ¶ 1.d.). When asked by DOHA to report what he had done to resolve the \$1,395 judgment, Applicant replied in September 2009 that he had contacted the creditor and was making \$50 monthly payments to satisfy the debt, beginning in September 2009. However, in his February 2010 answer to the SOR, Applicant denied the judgment. He then supplied the following additional information:

I am currently looking into this matter and have requested [the creditor] to send me a itemized list. I had no knowledge of this debt. If I find this bill is valid I will make payment arrangements with the company, however I do not think I should pay a bill that I have no knowledge of just because it appears on my credit report.

(Item 1; Item 5 at 3; Item 7 at 11.)

The SOR also alleged that Applicant was responsible for three delinquent medical debts: a judgment filed by a medical creditor for \$189 in 2007 (SOR ¶ 1.i.); a delinquent medical debt for \$177 listed on his November 2009 credit report (SOR ¶ 1.g.); and a delinquent medical debt for \$348 listed on his November 2009 credit report (SOR ¶ 1.h.). In his September 2009 response to DOHA interrogatories, Applicant stated that he had paid the three delinquent medical debts. He provided a copy of a check for \$714 that he had written on March 4, 2009 to a collection agency. He pointed out that the three delinquent medical debts, when added together, totaled \$714.² In his answer to the SOR, Applicant asserted again that he had paid the three medical debts, and he again provided a copy of the check, dated March 4, 2009, made payable to the collection agency for \$714. (Item 1; Item 3 at 2-3, 8; Item 7 at 12, 20.)

The SOR alleged at ¶ 1.r. that Applicant owed a judgment debt, filed against him in 2001, of approximately \$978. The debt is listed on Applicant's credit report of March 2008 and on a Lexis Nexis Public Record search of November 12, 2009. In his answer to the SOR, Applicant stated that he was investigating the debt. The debt remains unpaid. (Item 1; Item 3; Item 5 at 4; Item 10; Item 13.)

The SOR alleged that Applicant owed seven delinquent debts, in charged-off and collection status, which totaled \$6,880. The debts are alleged at SOR ¶¶ 1.j., 1.k., 1.l., 1.m., 1.n., 1.o., and 1.q. In his answer to the SOR, Applicant asserted that the debts had been consolidated in a settlement with a credit management firm. To corroborate his assertion, he provided a letter from the credit management firm showing that Applicant had an account balance of \$828.91, which the creditor agreed to settle for \$746.04. Applicant also provided a copy of a check, dated February 10, 2010, made out to the credit management firm for \$828.91. The letter and the copy of the check fail to

² Applicant's credit report of November 2009 showed that he had disputed the debts alleged at SOR ¶¶ 1.g. and 1.h. The judgment alleged at SOR ¶ 1.i. did not appear on the November 2009 credit report. (Item 12 at 1-2.)

establish that the seven debts alleged in the SOR are included in the settlement agreement. (Item 1; Item 3 at 9; Item 5 at 3-4.)

The SOR alleged that Applicant owed a \$2,873 debt, in collection status, to a creditor, and the debt remained unpaid. In his response to DOHA interrogatories and in his answer to the SOR, Applicant denied knowledge of the debt. He stated he would pay the debt if he determined that it was his. The debt is listed on Applicant's credit reports of March 2008, February 2009, and November 2009. The November 2009 credit report stated that Applicant disputed the debt "after resolution." Applicant failed to provide documentation showing he had contacted the creditor. He also failed to provide documentation showing why he disputed the debt and the creditor's response to his dispute. (Item 1; Item 3; Item 5 at 5; Item 7 at 12; Item 10; Item 11; Item 12.)

Applicant completed and certified an e-QIP on February 11, 2008. Section 27d of the e-QIP asks: "In the last 7 years, have you had any judgments against you that have not been paid?" Applicant responded "No" to Section 27d. SOR ¶ 2.a. alleges that Applicant deliberately failed to disclose the judgments alleged at SOR ¶¶ 1.d., 1.i., and 1.r. (Item 1; Item 6.)

Section 28a of the e-QIP asks if an applicant for a security clearance has been over 180 days delinquent on any debt in the last seven years. Section 28b of the e-QIP asks if an applicant is currently over 90 days delinquent on any debt. Applicant answered "No" to Section 28a and Section 28b. SOR ¶¶ 2.b. and 2.c. allege that Applicant deliberately failed to disclose his delinquent debts of over 180 days in the past seven years and his current financial delinquencies of over 90 days. (Item 1; Item 6.)

Section 22 of the e-QIP asks if an applicant left a job under unfavorable circumstances. Applicant answered "No" to Section 22. SOR ¶ 2.d. alleges that Applicant deliberately failed to disclose that he left a position in the federal service in 2001 under unfavorable conditions because he failed to maintain a condition of his employment. (Item 1; Item 6.)

Section 26b of the e-QIP asks: "To your knowledge, have you ever had a clearance or access authorization denied, suspended, or revoked, or have you ever been debarred from federal employment?" Applicant answered "No" to Section 26b. SOR ¶ 2.e. alleges that Applicant, by answering "No," deliberately failed to disclose that in 2001 his security clearance was revoked and his eligibility for access to SCI was withdrawn. (Item 1; Item 6.)

On February 11, 2008, after completing his e-QIP, Applicant signed the following certification:

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form

can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code.

(Item 6 at 33.)

SOR ¶ 2.f. alleges that the financial delinquencies alleged in SOR ¶¶ 1.a. through 1.c. also raise security concerns under Guideline E, Personal Conduct.

In his answer to the SOR, Applicant denied the falsification allegations and characterized them as “untrue.” He claimed to be unaware of his financial delinquencies for many years and stated that he had not looked at his credit report for ten years. He stated that he had moved several times and did not receive notifications of debts and delinquencies from creditors. He claimed that all of his tax issues had been resolved, and he was current on all of his tax obligations. He denied deliberate falsification of his answers on his e-QIP. He stated that he answered all questions truthfully from the knowledge he had at the time. (Item 3 at 6; Item 5 at 7.)

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 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 and modified.

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 to obtain 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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 relating to the guideline for 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 notes several conditions that could raise security concerns 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. Additionally, security concerns arise under AG ¶ 19(g), when there is evidence of “failure to file annual Federal, state, or local income tax returns as required”

In 1983 and 1994, Applicant’s failure to pay his creditors and satisfy his financial obligations caused his federal employer to put him on notice that it intended to revoke or deny his security clearance. In 2001, his persistent and unresolved financial delinquencies caused his federal employer to revoke his security clearance and withdraw his eligibility for access to SCI. Since 2001, Appellant accumulated additional delinquent debt, and he was unwilling or unable to pay his creditors. Moreover, his failure to file his federal and state income taxes in the period from 1995 to about 2000 generated federal and state tax liens which remain unsatisfied. This evidence is sufficient to raise security concerns under AG ¶¶ 19(a), 19(c), and 19(g).

The guideline also includes examples of 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, (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)). Still other mitigating circumstances that might be applicable include evidence that “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 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)).

Applicant has a history of financial delinquencies that dates to at least 1983. His delinquencies are recent and on-going. They have occurred under circumstances that are likely to recur.

Applicant has been steadily employed with his current employer since 2005. The record does not support a conclusion that his failure to satisfy his creditors is the result of circumstances beyond his control. The record does not reflect that Applicant has had financial counseling.

Applicant provided some persuasive documentation to support his assertion that he had paid the debts alleged at SOR ¶¶ 1.g., 1.h., and 1.i. Accordingly, these three allegations are concluded for Applicant.

However, Applicant failed to provide credible documentation that he had made good-faith efforts to satisfy his other creditors. He failed to provide documentation to support his assertions that his federal and state tax liens are resolved. While the debts alleged in the SOR were listed on his credit reports of 2008 and 2009, most of them remain unresolved in 2010. Applicant stated that he would pay some of his debts in the future if it was determined that they were his. In determining an individual's security worthiness, the Government cannot rely on the possibility that an applicant might resolve his or her outstanding debts at some future date. ISCR Case No. 98-0614 at 5 (App. Bd. Jul. 12, 1999). I conclude that none of the financial considerations mitigating conditions fully applies to the facts of Applicant's 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 signed his e-QIP in February 2008, he failed to provide truthful answers to queries about his outstanding judgments and financial delinquencies, about leaving a job under unfavorable circumstances, and about the revocation of his security clearance and loss of SCI eligibility in 2001. The SOR alleged that Appellant's "no" responses to these questions were deliberate falsifications.

Applicant's negative answers raise a security concern under AG ¶ 16(a), which 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."

Additionally, SOR allegations 1.a., 1.b., and 1.c. are cross-alleged at SOR ¶ 2.f. as Guideline E security concerns. These allegations, two of which were admitted by Applicant and a third which was established by the Government with documentary evidence, raise security concerns under AG ¶ 16(c), which reads:

credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other

characteristics indicating that the person may not properly safeguard protected information.

Applicant was an experienced federal employee who held a security clearance and eligibility for access to SCI for over 20 years. As a person entrusted with access to classified information, he had reason to know that he was required to answer all questions on the e-QIP truthfully. He also knew that for over 20 years, his financial problems were of such seriousness and duration that his federal employer considered removing his access to classified information twice before revoking it permanently in 2001. He knew when he applied for a security clearance as a government contractor that his background would be investigated thoroughly.

Applicant wanted to receive a security clearance. He had good reason to know that his current financial delinquencies might prevent him from receiving a security clearance. He also knew that the conditions under which he left federal employment in 2002 might raise security concerns. Instead of revealing these matters on his e-QIP, Applicant chose to conceal these matters from the Government.

In his answers to the SOR, Applicant continued to argue that he did not know about his financial condition when he completed his e-QIP in 2008. This assertion lacks credibility when viewed against the several reminders from his federal employer that his financial conduct raised on-going security concerns.

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.

AG ¶ 17(d) might apply if "the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur." AG ¶ 17(e) might apply if "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress."

Applicant falsified material facts on the e-QIP that he executed and certified as true in 2008. Nothing in the record suggests that he took prompt good faith action to correct the omissions, concealments, or falsifications before he was confronted with the

facts. Nothing in the record suggests that his failure to report his financial delinquencies, leaving a job under unfavorable conditions, or the loss of his security clearance in 2001 was caused or significantly contributed to by improper or inadequate advice specifically about the security clearance process from authorized individuals or legal counsel. (AG ¶ 17(b).) When he executed his security clearance application, Applicant knew or should have known that he had a 20-year record of financial delinquency and mismanagement. As a mature adult, he knew that his financial problems were not minor, so remote in time, so infrequent, or had occurred under such unique circumstances that they would not seriously impact his eligibility for a security clearance. (AG 17(c).) Applicant failed to provide documentation that he obtained counseling or had taken other positive steps that might alleviate the circumstances that caused his unreliable conduct and, as a result, such behavior was unlikely to recur. (AG ¶ 17(d).) Nothing in the record suggests that Applicant took positive steps to reduce or eliminate the vulnerability to exploitation, manipulation, or duress that his behavior caused. (AG ¶ 17(e).) I conclude, therefore, that none of the applicable personal conduct mitigating conditions applies to the facts of Applicant's case. I also conclude that Applicant's falsifications on his 2008 e-QIP were deliberate.

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 an applicant's 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 deliberately falsified his answers on the e-QIP he completed and certified in 2008. He failed to reveal that he had left a job under unfavorable circumstances. He failed to reveal that his financial delinquencies caused his federal employer to revoke his security clearance and withdraw his access to SCI. He failed to provide documentation to support his assertions that he had satisfied federal and state tax liens and the majority of the financial delinquencies which arose as the result of his consumer debt. He provided no

documentation to establish that he had established a plan to pay his debts and remain solvent in the future.

Overall, the record evidence leaves me with serious doubts about Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising from his financial delinquencies and personal conduct.

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.f.:	Against Applicant
Subparagraphs 1.g. - 1.i.:	For Applicant
Subparagraphs 1.j. - 1.u.:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a. - 2.f.:	Against 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.

Joan Caton Anthony
Administrative Judge