



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



In the matter of:	)	
	)	
	)	ISCR Case No. 09-06554
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Candace L. Garcia, Esquire, Department Counsel  
For Applicant: Thomas Albin, Esquire

January 7, 2011

**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant owed about \$18,043.62 in delinquent credit card debt and \$156 in past due medical debt as of January 2010. He was also behind about \$3,392 on his mortgage. Financial concerns are mitigated because he settled or satisfied the debts by refinancing his mortgage in February 2010, and the debts were incurred because of factors outside of his control. Personal conduct concerns are not mitigated because Applicant falsely denied any delinquent debt when he applied for his security clearance and he has not shown that the Government can rely on his representations. Clearance denied.

**Statement of the Case**

On March 5, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) that provided the basis for its preliminary decision to deny him a security clearance. 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) effective within the Department of Defense as of September 1, 2006.

Applicant responded to the SOR allegations on March 24, 2010, and he requested a decision by a DOHA administrative judge without a hearing. A hearing was subsequently requested, and on May 6, 2010, the case was assigned to me to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On May 17, 2010, I scheduled a hearing for June 8, 2010.

I convened the hearing as scheduled. Applicant appeared with legal counsel, who entered his appearance at that time. Eight Government exhibits (Ex. 1-8) and eight Applicant exhibits (Ex. A-H) were entered into evidence without objection. Applicant also testified, as reflected in a transcript (Tr.) received on June 18, 2010.

### **Findings of Fact**

The SOR alleged that as of March 2010, Applicant owed \$29,500 in delinquent consumer credit debt (SOR 1.a-1.b, 1.d-1.g, 1.i), \$156 in medical debt (SOR 1.c), and \$3,392 on his mortgage loan, which was 120 days or more past due (SOR 1.h). Under Guideline E, Applicant was alleged to have deliberately falsified a May 2009 security clearance application by responding “No” to whether he had been over 180 days delinquent on any debts in the last seven years, and to whether he was currently over 90 days delinquent on any debts (SOR 2.a). Applicant denied that the debts remained unpaid, because the debts had been settled or paid in full on February 17, 2010, through refinancing his mortgage. Applicant acknowledged that he has responded “No” to the financial inquiries as alleged, but he denied deliberate falsification. After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 48-year-old high school graduate, who has been employed as a rigger by a defense contractor since February 2009. He previously worked for the company from June 1982 to September 1992. (Ex. 1, 2; Tr. 20-21, 32.) Applicant holds a company-granted confidential security clearance, and he held that clearance during his previous employment. (Tr. 22).

Applicant and his spouse have been married for 23 years and they have three teenage children. (Ex. 1; Tr. 31.) They have lived in the same town since 1987 (Tr. 20) and in their present home since 2001. (Tr. 46.) Applicant worked as an inside carpenter (“model joiner”) for his current employer from 1982 until 1992. (Tr. 32.) Around August 1992, the company had a large layoff, and Applicant was transferred to outside construction. (Ex. 2; Tr. 22.) He left for a construction job with a local casino, and when the casino downsized the number of construction workers at the site, he drove a sand and gravel truck. (Tr. 22-23.) In 1997, Applicant began working for a food service company. For the next ten years, he drove a delivery truck. (Ex. 1; Tr. 23.)

Due to an on-the-job injury sustained in July 2005, Applicant was out-of-work on workmen’s compensation until January 2006. Although his medical costs were covered, his income was reduced by about 40% (Tr. 88.) He and his spouse began to fall behind in their financial obligations. (Ex. 2.) In November 2006, their youngest daughter was diagnosed with a medical condition requiring life-long prescription medication for survival. They were immediately faced with monthly prescription deductibles. In June 2007, Applicant and his spouse incurred out-of-pocket costs in excess of \$2,000 for a medical device for their daughter. (Ex. 2, Tr. 27-28.)

In November 2007, Applicant was laid off from the food service company in a company downsizing. Until May 2008, he helped a friend with his landscaping business. (Ex. 1; Tr. 89.) For the next ten months, he worked off and on as a union truck driver, taking assignments when available. From May 2008 to December 2008, he drove a truck for a construction company. The union made an effort to find jobs for him, but there were times, as long as three or four months, where he had no work. He collected unemployment during those periods, and he continued to carry medical insurance, but his premium increased to \$1,200 to \$1,500 a month when he was out of work. (Tr. 24-26, 29-30.) Several accounts became delinquent, as set forth in the following table.

Debt	Delinquency history	Payment history
\$3,488 credit card judgment (SOR 1.a)	Opened May 2003, last activity Jan. 2008, charged off, \$3,488 judgment Jul. 2009. (Ex. 5-8.)	Wage execution order, paid \$2,936.79 in final payoff Feb. 17, 2010. (Ex. A.)
\$11,612 credit card debt (SOR 1.b)	Opened Dec. 2001, last activity Jun. 2006, \$10,324 for collection Jun. 2008, \$11,621 balance as of Jan. 2010. (Ex. 5, 6.)	Paid \$6,364.92 to settle debt Feb. 17, 2010. (Ex. B.)
\$156 medical debt (SOR 1.c)	\$156 balance from Nov. 2008, for collection Apr. 2009. (Ex. 6.)	Paid \$125 to satisfy debt in full Feb. 17, 2010. (Ex. C.)
\$4,495 credit card charge off (SOR 1.d)	\$4,495 MasterCard balance same debt as SOR 1.a. <sup>1</sup> Owed Visa credit card balance to same lender (not alleged in SOR) placed for collection, \$1,422.09 balance	Paid \$1,067 to settle Visa card debt Feb. 17, 2010. (Ex. D.)

<sup>1</sup>The Government alleged the debt twice, as a judgment balance (SOR 1.a) and as a charged off debt (SOR 1.d). The credit bureaus reported balances of \$4,136 as of June 2009 (Ex. 5.) and \$4,495 as of February 2010 (Ex. 6.), likely due to accrued interest. As of April 2010, the balance of the debt was \$860. (Ex. 7.) By June 2010, the account was listed as “paid for less than full balance.” (Ex. 8.) Although the judgment was still listed separately, court records, submitted as Exhibit A, show the judgment was satisfied as of March 9, 2001. (Ex. A.) Applicant had a Visa card account with the lender that he settled for \$1,067. (Ex. D.)

	as of Feb. 2010. (Ex. D.)	
\$363 credit union charge off (SOR 1.e)	Opened Apr. 1988, \$1,500 limit, last activity May 2008, \$363 for collection Aug. 2008 (Ex. 5.),	Paid \$350 Feb. 24, 2010, \$13.68 on Mar. 12, 2010. (Ex. E.)
\$1,031 credit card debt (SOR 1.f)	\$967 for collection Apr. 2008, balance \$980 as of May 2009 (Ex. 5.), \$647.53 balance Jan. 2010. (Ex. D.)	Paid \$390 to settle debt Feb. 17, 2010. (Ex. D.)
\$511 retail credit card debt (SOR 1.g)	Opened Feb. 1985, last activity Nov. 2007, \$417 for collection Nov. 2008, \$511 balance Jan. 2010. (Ex. 5, 6.)	Paid \$255.13 in full and final settlement Feb. 17, 2010. (Ex. F.)
\$3,392 past due mortgage balance (SOR 1.h)	\$170,000 home loan taken out Jun. 2001, late 60 days with \$3,166 past due May 2009 (Ex. 5.), \$3,392 past due Jan. 2010. (Ex. 6.)	Debt resolved in Feb. 17, 2010, mortgage refinance. (Ex. G.)
\$8,000 credit card debt (SOR 1.i)	Same debt as SOR 1.b	See 1.b above.

In February 2009, Applicant began working as a rigger for his employer. (Tr. 32.) While his hourly wage was lower than in previous jobs, the job provided a reliable paycheck plus benefits. (Ex. 2.) On May 19, 2009, he completed an Electronic Questionnaire for Investigations Processing (e-QIP) for a security clearance. He responded negatively to the financial record inquiries, which have a seven-year scope unless otherwise specified, including 26.g (“Have you had any bills or debts turned over to a collection agency?”), 26.h (“Have you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed?”), 26.m (“Have you been over 180 days delinquent on any debt(s)?”), and 26.n (“Are you currently over 90 days delinquent on any debt(s)?”). (Ex. 1.) However, a check of Applicant’s credit on June 9, 2009, disclosed some credit card accounts charged off or placed for collection or both and that he and his spouse were behind \$3,166 or 60 days on their mortgage. (Ex. 5.)

In early July 2009, Applicant fractured his shoulder at work. (Tr. 34-35). While out of work for three months, he was paid workmen’s compensation of \$500 per week, which put a strain on the family’s finances. (Tr. 36-37.) Applicant notified his creditors that he was out of work, and he paid what he could on his mortgage loan. (Tr. 38.) While he was out of work, he was interviewed on August 19, 2009, by a Government investigator about his delinquent debts. He was asked about debts on his credit report. He indicated that he fell behind due to a job layoff and his daughter’s medical expenses, which he paid from savings. Applicant indicated that he had been in contact with the creditors owed the debts identified in SOR 1.a and 1.e about payment arrangements. He expressed his belief (albeit mistaken) that the debt in SOR 1.b was a retail charge account and added that he had

been calling to arrange for repayment. Applicant surmised that the collection debts in SOR 1.f and 1.g were credit card debts, but he was not sure. He asserted he was current on all his other bills. (Ex. 4.) He was behind in his mortgage, home equity, and automobile loans but making some payments. (Ex. 3, 5.)

Applicant returned to work in October 2009. (Tr. 39.) In early December 2009, Applicant was promoted to first class rigger, which brought a “much needed significant increase” in his hourly rate to \$23.65. (Ex. 2, Tr. 40-41.) At DOHA’s request, Applicant provided a detailed account of his finances in late January 2010. He reported a net monthly deficit of \$202.52 after paying the household expenses and three debts (mortgage, home equity, and automobile loans). He explained that his lengthy unemployment and the cost of COBRA insurance made it “almost impossible” to pay on their other debts, and that when finances became tight, he and his spouse refrained from incurring any new debt. Through refinancing their mortgage with a new loan preapproved for \$225,000, they planned to pay off their delinquent debts and home equity loan, and to bring their automobile loan current.<sup>2</sup> (Ex. 2.) As to the accuracy of the investigator’s report of the August 2009 interview, Applicant explained that when he said he was current on all his other bills, he meant credit card accounts and not his mortgage, home equity, and automobile loans, which were behind, but he was making payments. (Ex. 3.)

Applicant and his spouse refinanced their mortgage in mid-February 2010, taking on a 30-year real estate loan of \$232,000. With the funds paid out to them in the refinancing, they satisfied the \$40,918.81 balance of their home equity loan and settled the debts in the SOR. (Ex. A-G.)

On March 5, 2010, DOHA issued an SOR to Applicant due to his history of financial delinquency and failure to disclose on his May 2009 e-QIP that some accounts had been past due over 180 days in the last seven years and that he was over 90 days delinquent on some obligations as of May 2009. Applicant explained in his March 22, 2010 answer to the SOR that he began to fall behind in some payments in July 2005, and that due to his daughter’s medical problems and his unexpected layoff in November 2007, he had been unable to clear up his delinquent debts. With the stability of his defense contractor employment, he had recently settled his debts. Concerning his omission of delinquent debt from his e-QIP, Applicant stated the following:

I admit that I answered no to having any delinquencies over 180 days. This was my fault in the interview because I was thinking of my current bills and not accounts that had been charged-off and I rarely received any documentation in the mail for. I also had not pulled or looked at my credit report prior to the interview. The last credit report that I had looked at was almost 10 years ago when I obtained a construction mortgage for my house.

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<sup>2</sup> The statement Applicant furnished was directed to the bank for the mortgage refinancing, and it appears to have been drafted by his spouse.

I admit that I answered no to not being over 90 days delinquent on any debts but I deny that I deliberately failed to disclose the debts in subparagraphs 1.b, 1.h. At the interview I admitted to all the debts on the credit report and misunderstood that I was being asked if there was any other debts other than what was listed on the credit report which there were not. I was not over 90 days delinquent on the mortgage at the time of the interview and was currently making monthly payments.

In mid-May 2010, Applicant's mother died and he inherited her estate, which includes her house, vehicle, and between \$120,000 and \$160,000 in a retirement fund. (Tr. 44-45.) As of June 2010, Applicant had \$26,592.21 on deposit in his bank account (Ex. H.), and he expected to receive \$184,000 that was in an account held jointly with his mother. (Tr. 79-80.)

Applicant was working overtime almost every weekend as of June 2010. (Tr. 39.) His spouse was employed as a part-time bookkeeper for a small trucking company. (Tr. 70.) Applicant no longer has any open credit card accounts (Ex. 8; Tr. 76.), and he has not used a credit card in "more than a few years." (Tr. 117.) He and his spouse shared payment responsibility for their credit card debts in the past, although she writes the checks. (Tr. 94, 125-26.)

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered 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, these guidelines are applied 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 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 that 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 for Financial Considerations is set out in AG ¶ 18, as follows:

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 under AG ¶ 19. Two are applicable in this case: (a) “inability or unwillingness to satisfy debts;” and (c) “a history of not meeting financial obligations.” When Applicant applied for a security clearance in May 2009, he owed about \$18,043.62 in delinquent credit card debt and \$156 in past due medical debt. He had made no payments on the credit card accounts in the year preceding his application, and his largest debt (SOR 1.b) had been outstanding since June 2006. In addition, he was 60 days past due on his mortgage loan.

Five Financial Considerations mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior 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;

(b) 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;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(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.

AG ¶ 20(e) applies in limited part in that the debt listed in SOR 1.b is an updated balance of the debt in SOR 1.i. The evidence does not establish that Applicant owed an additional balance of \$8,000 as alleged in SOR 1.i. While Applicant was shown to owe two separate debts to the creditor identified in SOR 1.a, the \$4,495 alleged in SOR 1.d appears to include accumulated interest on the MasterCard debt that was taken to judgment. Applicant's evidence shows that he had a past due VISA account balance of \$1,422 that he settled for \$1,067. He successfully disputed the balance alleged in SOR 1.d.

The recency of Applicant's financial problems precludes favorable consideration of AG ¶ 20(a). While it is unclear when the charges were incurred, the credit information of record indicates last activity dates of January 2008 on the debt in SOR 1.a, June 2006 on the debt in SOR 1.b (SOR 1.i duplicate debt), May 2008 on the debt in SOR 1.e, April 2008 on the debt in SOR 1.f, and November 2007 on the debt in SOR 1.g. Furthermore, the debts were unresolved as of January 2010.

However, mitigating condition AG ¶ 20(b) applies. Applicant's financial struggles started with an on-the-job injury in July 2005 that left him unable to work until January 2006. Then, in November 2006, his younger daughter was diagnosed with a medical condition requiring life-long prescription medication. In addition to monthly co-pay costs, Applicant and his spouse incurred a \$2,000 debt in June 2007 related to their daughter's care. In November 2007, Applicant was laid off from the job he had held for ten years. While he worked as a landscaper for his friend until May 2008, he and his spouse had COBRA costs for medical insurance that they had to maintain for their daughter. Applicant's employment in 2008 was on-and-off depending on work available through the union. The loss of income and increased medical expenses are unforeseen circumstances beyond Applicant's control that led him or his spouse to stop paying on the credit card debts at issue. As for whether Applicant acted responsibly with regard to his debts once he began working for his current employer, he was on the job for only about six months when



he broke his shoulder. He was out of work until October 2009. As reflected in the monthly expense and debt figures he provided in late January 2010, he did not have the funds to repay his delinquent debt. As soon as he was financially able, he began to take responsibility for settling his debts by refinancing his home mortgage. AG ¶ 20(b) also applies to mitigate his delay in addressing his delinquencies.

After Applicant returned to work, he and his spouse began the process of refinancing their mortgage for the funds needed to settle their delinquent debt. By late January 2010, they had been approved for a \$225,000 loan (Ex. 2.), and with the real estate closing on February 17, 2010, they settled their debts. AG ¶ 20(c) and ¶ 20(d) are pertinent. While resolution of the debt does not necessarily preclude future financial problems, Applicant's financial situation has improved dramatically in the last six months. In addition to taking advantage of overtime at work, Applicant has come into substantial funds on the death of his mother. He had \$26,592 on deposit in his account and expected another \$184,000 from a joint account he held with his mother.

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

The security concern about personal conduct is set out in AG ¶15:

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.

Applicant listed no delinquent debts on his May 2009 security clearance application, despite owing several collection balances (SOR 1.a, 1.b, 1.e, 1.f, 1.g). In his answer, he admitted that he responded negatively to questions 26.m and 26.n on his e-QIP, but he now denies any intentional falsification. Citing his failure to obtain his credit report, he maintains he did not know that he was seriously behind on his credit card debts when he completed his e-QIP ("When I signed that [e-QIP], I did not know I was at all, I knew I struggled a little bit. . .I wrote truthfully I didn't believe that I was behind that far." (Tr. 75-76.)

The evidence establishes that while Applicant may not have known about a couple of his debts, he certainly knew that he had outstanding delinquent credit card balances that were not settled until February 17, 2010. When Applicant was initially confronted by his adverse credit information in an August 2009 interview, he did not recognize the collection debts identified in SOR 1.f and 1.g, and I accept that he may not have known about those debts. He mistakenly indicated that the debt in SOR 1.b was for department store credit extended to him, but he did not deny the past due balance nor the credit card delinquencies in SOR 1.a (duplicated in SOR 1.d) and SOR 1.e. To the contrary, he indicated he was in the process of arranging for repayment of those accounts. And, when

he responded to the SOR in March 2010, Applicant detailed the circumstances that led to charged-off balances. He added that during his subject interview, he had focused on his current bills, and not charged-off accounts for which he had “rarely received any documentation in the mail.” But he did not indicate that his omission of delinquent debt from his e-QIP was due to a misunderstanding or lack of knowledge about his debts, with the possible exception of the debts in SOR 1.b and 1.h which he denied he deliberately failed to disclose.

Even if Applicant’s spouse paid more of the bills than he did (Tr. 128.) and Applicant received no collection notices, he knew that he had credit card debt that he was unable to pay in 2006 and 2007 after he was laid off, and in 2009 after he was injured on the job. (Tr. 100-02.) One Personal Conduct disqualifying condition under AG ¶ 16 is implicated:

(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.

Had Applicant testified at his hearing in a credible manner consistent with his previous representations, he would have gone a long way toward establishing reform of his e-QIP omissions. Instead, he testified that he was unaware that he was over 180 days delinquent on any obligations (Tr. 72, 75.); that he “maybe didn’t understand the statements that [he] answered (Tr. 83.); that there was some debt on his credit record that he did not know he had (Tr. 96.); that he must have been making payments on his debts as of his e-QIP since he responded “No” to the debt inquiries (Tr. 99.); that he did not know he was over 180 days late on any obligation because he “was never contacted by anybody” (Tr. 100, 118.); that he did not know that he had all that credit card debt (Tr. 102, 108.); that he “went to the 180 day mark” and didn’t think he had the debt (Tr. 119.). But he also made admissions that indicate knowledge of his financial problems: that he had made some effort to “try to talk with people” when he was having problems paying his debts (Tr. 96.); that he “probably” contacted the creditor in SOR 1.a sometime after his May 2009 e-QIP although he could not recall what prompted the contact (Tr. 123.); and that both he and his spouse discuss their bills, and that he pays those that he can in person while his spouse writes the checks for the others. (Tr. 125-26.) Applicant knew more about his financial problems that he is now willing to acknowledge. When he answered the SOR, he admitted that he had no disposable income during his unemployment “to make any payments at all on the credit cards,” but that on the successful refinancing of his mortgage in February 2010, “all of [his and his spouse’s] charged-off credit cards, other debts were settled.” Yet, he responded “No” on his e-QIP to whether he had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed. The Government established its case under AG ¶ 16(a).

None of the potentially mitigating conditions fully apply. AG ¶ 17(a) (“the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification

before being confronted with the facts”) applies to the extent that Applicant admitted some of the debts when he was interviewed in August 2009. But Applicant acknowledged the debts in SOR 1.a, 1.b, and 1.e in response to adverse credit information brought to his attention by the investigator, so his rectification was not without confrontation. Furthermore, given his unwillingness to acknowledge his lack of candor on his e-QIP, I cannot apply either AG 17(c) (“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” ) or AG ¶ 17(d) (“the individual has acknowledged the behavior and obtained counselling 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”).

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of his conduct and all relevant circumstances in light of 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.

Applicant and his spouse struggled financially due to the loss of his income and medical expenses for their daughter. They have since resolved the debts and their financial situation improved substantially to where recurrence of the financial problems appears unlikely. But personal conduct concerns persist because of Applicant’s deliberate omission of serious financial delinquency from his security clearance application, and his failure to demonstrate that the Government can rely on his representations. While I can appreciate Applicant’s desire to retain the job that he needs to support his family, reform is not demonstrated by vague and inconsistent accounts about his contacts with creditors and his knowledge of his debts.

## 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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Subparagraph 1.f:	For Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	For Applicant
Subparagraph 1.i:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	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.

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Elizabeth M. Matchinski  
Administrative Judge