



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



In the matter of )  
)  
) ISCR Case No. 10-08728  
)  
Applicant for Security Clearance )

**Appearances**

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

September 27, 2011

**Decision**

O'BRIEN, Rita C., Administrative Judge:

Based on a review of the pleadings, exhibits, and testimony, I conclude that Applicant has not mitigated the security concerns raised under the guidelines for criminal conduct, financial considerations, and personal conduct. His request for a security clearance is denied.

**Statement of the Case**

Applicant signed an Electronic Questionnaire for Investigations Processing (Standard Form 86) on June 1, 2009, to request a security clearance required as part of his employment with a defense contractor. After reviewing the results of the ensuing background investigation, adjudicators for the Defense Office of Hearings and Appeals

(DOHA) were unable to make a preliminary affirmative finding<sup>1</sup> that it is clearly consistent with the national interest to grant Applicant's request.

On April 22, 2011, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) citing security concerns focused on Guideline J (Criminal Conduct), Guideline F (Financial Considerations), and Guideline E (Personal Conduct) of the Adjudicative Guidelines (AG).<sup>2</sup> Applicant submitted an undated Answer to the SOR, in which he did not respond to all the allegations. He completed a second Answer dated July 11, 2011, which contained several ambiguous responses. At the hearing, Applicant clarified each of his responses. Of the seven allegations under Guideline J, he denied two, 1.d and 1.e. Of the eight allegations under Guideline E, he admitted two, allegations 2.a and 2.b. He admitted all 12 allegations under Guideline F. (Tr. 11-12, 62)

Department Counsel was ready to proceed on June 2, 2011. DOHA assigned the case to me on June 15, 2011, and issued a Notice of Hearing on July 18, 2011. I convened the hearing as scheduled on August 3, 2011. At the hearing, I admitted government exhibits (GE) 1 through 13. Applicant testified, offered the testimony of one witness, and offered 12 documents, which I admitted as Applicant's Exhibits (AE) A through L. I held the record open to allow Applicant to submit additional evidence. He timely submitted three additional documents, which Department Counsel forwarded without objection. I admitted them as AE M through AE O. The record closed on August 26, 2011.

### **Procedural Matters**

At the hearing, *sua sponte*, I amended SOR allegation 1.g to change the word "above" to "below," so that the wording accurately indicates the location of the referenced allegations.

### **Findings of Fact**

Applicant's admissions in response to the SOR are incorporated as findings of fact. After a thorough review of the pleadings, Applicant's response to the SOR, and the evidence presented by both parties, I make the following additional findings of fact.

Applicant is 45 years old. He has never been married and has no children. He completed coursework for a bachelor's degree in 1989, but did not receive the degree because he had an outstanding balance due to the university. He has had no periods of unemployment since at least 2000. He held a public trust position in approximately

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

<sup>2</sup> Adjudication of this case is controlled by the Adjudicative Guidelines (AG), which were implemented by the Department of Defense on September 1, 2006. The AG supersede the guidelines listed in Enclosure 2 to the Directive.

2001. In 2008, he began working for his current employer, a federal contractor, and was granted an interim secret security clearance. He is a principal information assurance engineer. (GE 3; Tr. 32-33, 40-41)

## **Guideline J, Criminal Conduct**

Between 1994 and 2006, Applicant was charged as follows:

- **1994** – After driving twice the posted speed limit and weaving in traffic, Applicant failed roadside sobriety testing and was arrested on a charge of Driving Under the Influence of Alcohol (DUI) in state A. At his July 2009 security interview, Applicant denied remembering any details of this arrest, including being charged with DUI, being arrested, appearing in court, or being fined. At the hearing, he stated that he was not convicted, but he paid a fine, and charges were dismissed. (GE 4, 5, 6; Tr. 41-42)
- **2001** – Applicant's Federal Bureau of Investigating (FBI) arrest record lists an arrest on April 15, 2001 for Driving While Intoxicated (Liquor/Drugs) in state B. Applicant stated at his July 2009 security interview that he received a speeding ticket and paid a fine, but did not remember being tested for sobriety, arrested, charged with DUI, or appearing in court. At the hearing, he admitted being charged with DUI in 2001. (GE 4, 7; Tr. 45)
- **2002** – Applicant was charged with DUI in state C in May 2002. When asked if he had been “arrested, charged with, or convicted of any offenses” on his 2004 public trust position application, Applicant listed the DUI and added that he paid a fine. This offense is not alleged in the SOR. (GE 1; Tr. 43, 47)<sup>3</sup>
- **2004** – Applicant was charged with Disorderly Conduct and Offensive Touching in November 2004. He and his girlfriend had an argument during which he grabbed her arm. He then left the apartment, and she called the police. He was arrested and spent several hours in jail. At court in 2005, his girlfriend did not appear, and charges were dismissed. At his 2009 security interview, Applicant admitted he was arrested and formally charged, and spent about four hours in jail. At the hearing, he testified that he was charged, but not arrested. (GE 4, 7; Tr. 48, 54)
- **2005** – On May 22, 2005, Applicant was arrested on a charge of Disorderly Conduct. According to the court's disposition record, he pled guilty on August 4, 2006, and was convicted on August 17, 2009 (*sic*). He was fined a total of \$287. Applicant admits the charge, and that he appeared in court. However, he testified

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<sup>3</sup> I will not consider unalleged conduct in reaching the decision in this case. However, conduct not alleged in an SOR may be considered for the following purposes: (a) to assess an applicant's credibility; (b) to evaluate an applicant's evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether an applicant has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) to provide evidence for whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct 26, 2006).

that all charges were dropped, and denies that he was found guilty. (GE 9; Tr. 48-51)

- **2006** – On August 3, 2006, Applicant was arrested on charges of Failure to Answer a Summons and Offensive Touching. He pled not guilty to the charge of Failure to Answer a Summons, and guilty to the charge of Offensive Touching. On August 17, 2009 (*sic*), the charge of Failure to Answer a Summons was dismissed, and Applicant was found guilty of Offensive Touching. The fine and court costs totaled \$287. At the hearing, Applicant initially denied he was found guilty of Offensive Touching, but later testified that he had confused two different arrests, and admitted that he was found guilty. (GE 8; Tr. 49-54)
- **2006** – In September 2006, Applicant was charged with Filing a False Police Report after he reported his car stolen. Applicant contends his friend took his car without his knowledge or permission. Applicant believed that he was unlikely to prove his case, because the friend's father was a police officer. At his subsequent court appearance, he pled No Contest and paid court costs. At his July 2009 security interview, he stated he was not arrested and did not spend time in jail. (GE 4, 7; Tr. 54-56)

Applicant submitted evidence showing that, as of April 30, 2010, he had no outstanding arrest warrants in his home state related to driver's license suspension laws. He also provided documentation regarding a speeding ticket issued on March 31, 2008, with a hand-written notation that it was paid on September 16, 2008. (AE C, D)

### **Guideline F, Financial Considerations**

Applicant's delinquent SOR debts total \$27,552. He retained a consumer credit company in November 2010, and pays a fee of \$95 per month for their services. The company contacts creditors and credit reporting agencies to investigate whether debts are valid, and dispute those that they determine to be errors. Once a debt is validated, it is Applicant's responsibility to pay it. Since November 2010, the company has disputed several debts with the credit reporting agencies. The SOR debts being handled by the consumer credit company are those alleged at 3.c, 3.d, 3.e, and 3.f. Applicant's documents show that two judgments were deleted from Applicant's credit report, but it provides no further information, so I am unable to determine if they are the same judgments listed in the SOR. (AE M, N)

Applicant testified he is making monthly payments on a 1989 student loan, which is not listed in the SOR. He also provided evidence that he paid a judgment of \$1,355, which also does not appear in the SOR. He is not making payments on any of the SOR debts, noting that he is waiting until the consumer counseling agency notifies him about the status of the debts. (AE A, B, F, J, K; Tr. 65-68, 81, 85-86, 92)

Applicant's pay statement and his Personal Financial Statement (PFS) of January 2011 show an annual gross income of \$111,000, with a net monthly income of

\$5,870. At the hearing, Applicant confirmed the listed expenses of \$2,915, and noted that he now also pays \$125 per month on two student loans, \$500 per month on two credit cards, an additional \$100 per month for gas, and \$95 to his credit counseling company. With this additional \$820 in payments, his current monthly net remainder (MNR) is \$2,040. The PFS did not include payments on any SOR debts, but Applicant testified that he intends to pay any that his counseling agency finds are legitimate. As to some of the small debts, Applicant testified that, "All these smaller debts are just little things that I've overlooked that are very easily able to be paid." (GE 4; AE L; Tr. 74, 91-97)

At the hearing, Applicant could not explain how he spends his monthly net remainder. However, in a statement submitted after the hearing, he explained that he forgot to explain during the hearing that he has been helping his father financially since his mother's death in early 2011. He has provided about \$10,500 to his father. Averaging this amount over eight months yields a monthly figure of approximately \$1,300. After deducting this monthly amount from his income, his MNR is \$740. (GE 4; AE O; Tr. 73-75, 96)

The following SOR debts appear in Applicant's credit reports dated December 2007, October 2009, and February 2010. (GE 10-13)

- **State tax lien, \$1,556** (allegation 3.a) – Applicant's state of residence filed a lien for back income taxes due in 2006. He disputed this debt through his credit counseling company. The record evidence is ambiguous: One credit agency deleted the debt, but another credit agency verified that the debt was accurate. However, at the hearing, Applicant admitted to the debt and testified that it resulted from "failure probably to file completely." (AE E, H; Tr. 63-65)
- **Auto loans (2) totaling \$20,216** (allegations 3.b and 3.c) - The balance owed on the judgment alleged at 3.b is \$2,399, for a car purchased in 1999, which was repossessed a year or two later. The collection agency offered Applicant a settlement of \$1,199 in January 2011, but he did not accept the offer. Applicant disputed the debt at allegation 3.c (\$15,452). After he and his ex-girlfriend bought the car together, she did not pay her share of the cost, and it was repossessed. The credit reporting agency verified that it is Applicant's debt. (GE 13; AE E, H, I; Tr. 68-73)
- **Utility, \$516** (allegation 3.d.)<sup>4</sup> - Applicant disputes the debt because he believes his ex-girlfriend paid this 2006 water bill. (AE E; Tr. 73-75)
- **Medical, \$61** (allegation 3.e) - This debt is being investigated by Applicant's counseling agency. He plans to pay it once it is validated. (Tr. 75)

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<sup>4</sup> The debts at allegations 3.d, 3.e, and 3.f are being collected by the same collection agency. Applicant's counseling agency noted that a debt from this agency was deleted from Applicant's credit report. However, it is unclear from the evidence whether the debt at allegation 3d, 3e, or 3f was deleted. (AE M)

- **Local government debt, \$60** (allegation 3.f) - Applicant does not recognize the debt, but stated in his Answer that he would pay this debt as soon as possible. He had not paid or made payments on the debt as of the date of the hearing. He testified that his failure to pay it was “just an oversight or just laziness in my part.” (Tr. 75-78)
- **Unknown judgment, \$835** (allegation 3.g) - Applicant does not recognize the debt, but stated in his Answer that he would pay this debt as soon as possible. He had not paid or made payments on the debt as of the date of the hearing. As with the previous debt, he testified that he did not pay it because of oversight or laziness. (Tr. 75-78)
- **Unknown debt, \$3,998** (allegation 3.h) – Applicant does not recognize this debt. It is being investigated by Applicant’s counseling agency. (Tr. 75)
- **Local government debts (4), totaling \$310** (allegations 3.i – 3.l) - Applicant stated in his Answer that he would pay this debt as soon as possible. He had not paid or made payments on the debts as of the date of the hearing. He testified that he planned to pay it, but had not because of oversight or laziness. (Tr. 75-78)

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

In his September 2004 application for a public trust position, Applicant listed his 2002 arrest, but not the 2001 arrest. He testified that he did not remember it. (Tr. 44) He also noted that he did not receive a degree from the university he attended. Two months after completing the public trust position application, in November 2004, he was charged with Disorderly Conduct and Offensive Touching. In 2005 and twice in 2006, he was charged with criminal offenses. On his November 2007 security clearance application, Applicant failed to disclose the six criminal offenses that had occurred in the previous seven years. In his security interview one month later, Applicant was asked if he had been arrested, charged, or convicted of any offenses in the previous seven years. He stated that he had not. He contends that he made these assertions because he believed he had not been convicted on any of the charges. On the 2007 and 2009 applications, Applicant also stated that he had received a degree in 1989 from the university he attended. He testified that he knew when he completed the application that he had not received a diploma because he had not paid his outstanding balance to the school. (GE1-4; Tr. 33-39, 56-58)

At his security interview in 2009, Applicant stated he did not list four criminal charges (1994, 2001, 2004, and September 2006) on his security application because he misunderstood or misinterpreted the questions, and he also forgot them. In his 2010 DOHA interrogatory, when asked why he had not disclosed his criminal offenses, he stated he could not recall all of the charges. (GE 4; Tr. 58)

At the hearing, Applicant again gave conflicting explanations about why he did not list the criminal charges in his security clearance applications. He said he did not remember them, but also testified he thought they “would not appear” because he had not been convicted. He testified, “I just didn't realize by being charged and having it dismissed that it would actually count as an actual occurrence.” Applicant also stated that he did not report the DUIs because he only paid a fine and was not convicted. However, he listed an arrest for a DUI on his 2004 public trust position application, and indicated on that form that he paid a fine. (GE 1, 4; Tr. 41-48, 55-56)

As to his debts, Applicant listed a judgment and two debts on his 2004 public trust position application. On his 2007 security clearance application, he admitted being more than 180 days past due on two debts. On his 2009 security clearance application, he disclosed that he had a lien, a judgment, a loan default, and a repossession. He also provided the details of these four debts, which he estimated to total \$21,000. He stated on his interrogatory response that he “did not have my complete credit history/report to refer to so I tried to list all outstanding debts to the best of my knowledge.” (GE 2, 3, 4)

The vice president of Applicant's company testified on Applicant's behalf. He oversees operations and is also Applicant's supervisor. He has known Applicant for three years in a professional capacity. He testified that he has seen Applicant at company functions, and he did not have any problems with consuming alcohol. Applicant has been an honest and trustworthy employee, including during the time period when he held an interim security clearance. (Tr. 110-121)

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the AG.<sup>5</sup> Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the Guidelines, commonly referred to as the “whole-person” concept.

The presence or absence of a disqualifying or mitigating condition does not determine a conclusion for or against an applicant. However, specific applicable guidelines are followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. In this case, the pleadings and the information presented by the parties require consideration of the security concerns and adjudicative factors addressed under Guideline J (Criminal Conduct), Guideline F (Financial Considerations) and Guideline E (Personal Conduct).

A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest<sup>6</sup> for an applicant to either receive or continue to

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<sup>5</sup> Directive 6.3

<sup>6</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

have access to classified information. The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the Government's case.

Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.<sup>7</sup> A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the judgment, reliability and trustworthiness to protect the national interests as his or his own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>8</sup>

## Analysis

### Guideline J, Criminal Conduct

The security concern under Guideline J is that

Criminal conduct creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

Applicant was arrested six times on criminal charges between 1994 and 2006, including two arrests for driving under the influence of alcohol (excluding the unalleged DUI in 2002). Disqualifying condition AG ¶ 31(a) (*a single serious crime or multiple lesser offenses*) applies.

Guideline J includes the following relevant mitigating conditions under AG ¶ 32:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment, and

(d) there is evidence of successful rehabilitation, including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.

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<sup>7</sup> See *Egan*, 484 U.S. at 528, 531.

<sup>8</sup> See *Egan*; Revised Adjudicative Guidelines, ¶ 2(b).



AG ¶ 32(a) does not provide mitigation. The last criminal conduct occurred in 2006, approximately five years ago, and it is not recent. However, nothing in the record evidence indicates that Applicant's criminal conduct happened under unusual circumstances, or circumstances that are unlikely to recur. Moreover, Applicant's numerous arrests point to a course of conduct that casts doubt on his judgment and his willingness to abide by rules and regulations. Also troubling is the fact that Applicant's two criminal offenses in 2006 occurred when he was a mature adult 40 years of age. Overall, his repeated involvement in criminal conduct casts doubt on his reliability and trustworthiness.

The fact that Applicant's last criminal conduct occurred five years ago is an indication of rehabilitation. However, his decision to provide false information in his 2007 and 2009 applications and interviews, concerning his diploma and his criminal conduct, brings his criminal conduct closer to the present, and undermines a claim of rehabilitation. AG ¶ 32(d) does not apply.

### **Guideline F, Financial Considerations**

AG ¶ 18 expresses the security concern about financial considerations:

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 over-extended is at risk of having to engage in illegal acts to generate funds.

The relevant disqualifying conditions are AG ¶19 (a) (*inability or unwillingness to satisfy debts*) and AG ¶19 (c) (*a history of not meeting financial obligations*). The SOR alleges more than \$27,000 in debts. The oldest became delinquent in 2001, and the majority date from 2006 and 2007. Although the debts are four or more years old, they remain unpaid. AG ¶¶ 19(a) and (c) apply.

Under AG ¶ 20, the following potentially mitigating factors are relevant:

(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: and

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

Most of Applicant's debts have been delinquent for several years. He was on notice that delinquent debts were a security concern when he completed his applications in 2004, 2007, and 2009. He was reminded that debts were a security concern when he met with an investigator in 2007 and 2009. However, the debts in the SOR remain unpaid. With more than \$27,500 in bad debt, his debts are both frequent and recent. His failure to take action to resolve them until he hired a credit counseling company a few months ago, raises questions about his reliability and judgment. AG ¶ 20(a) does not apply.

AG ¶ 20(b) mitigates financial problems that stem from unexpected events beyond an applicant's control. Here, there is no record evidence of unforeseen events that affected Applicant's ability to pay his debts such as a costly divorce, significant medical expenses, or unemployment. AG ¶ 20(b) does not apply.

Applicant disputes several debts. He hired a credit counseling company in 2010, and the company has helped him to identify invalid debts. However, it does not establish payment plans or negotiate settlements; it is Applicant's burden to pay the debts. He stated he has not paid any debts because he is awaiting information from the company about which debts are legitimate. In fact, the company has identified several debts as valid, but Applicant has not paid them or made any plan to pay them. His financial situation is not under control. Moreover, his lack of action over the past several years, despite his awareness that his debts were a security issue, does not support a finding of a good-faith effort. AG ¶ 20(c) and (d) do not apply.

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

AG ¶ 15 expresses the security concern about personal conduct:

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.

The Government alleges that Applicant deliberately falsified information about receiving a diploma on his security clearance applications in 2007 and 2009. It also alleges that he deliberately failed to disclose his criminal offenses and his financial

delinquencies on both applications and at his 2007 and 2009 security interviews. The allegations implicate the following disqualifying conditions under AG ¶ 16:

- (a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and
- (b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

Applicant admitted in his Answer to the SOR that he deliberately decided to claim that he received a degree from his university when he had not. AG ¶16 (a) applies. However, he contends his failure to disclose his criminal conduct on his applications and at his security interviews was not deliberate. In his testimony, he claimed both that he forgot the offenses, and that he thought he did not have to report them. The two reasons are contradictory: either he did not remember them, or he remembered them but thought he did not have to report them. Applicant's denial of deliberate falsification as to his criminal conduct is not credible. AG 16 (a) and (b) apply.

The SOR also alleges that Applicant deliberately falsified his 2009 security clearance application by failing to disclose that his debts were sent to a collection agency. However, on that application, he disclosed a repossession, tax lien, judgment, and loan default that together totalled \$21,000. These disclosures put the Government on notice that a security concern existed regarding his finances. AG ¶ 16(a) does not apply as to allegation 2.e.

As to mitigation, the following conditions are relevant under AG ¶17:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and
- (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.

The record contains no indication that Applicant reported his falsifications to an appropriate authority, such as his security officer or supervisor, after completing his 2007 or 2009 applications. He also did not contact the security investigator after his interviews to disclose his criminal conduct. Applicant's actions are not in the distant past, as his most recent falsification occurred at his security interview in July 2009, slightly over two years ago. A decision to deliberately conceal information from the

Government is not minor, and casts doubt on Applicant's judgment and trustworthiness. AG ¶ 17 (a) and (c) do not apply.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the relevant circumstances. I have evaluated the facts presented and have applied the appropriate adjudicative factors under the cited guideline. I have also reviewed the record before me in the context of the whole-person factors listed in 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.

AG ¶ 2(c) requires that the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based on careful consideration of the guidelines and the whole-person concept. Under the appropriate guidelines, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case.

At the time Applicant was charged with several criminal offenses, he was between 35 and 40 years of age. When he falsified his security clearance applications and provided false information to a security investigator, he was between 41 and 43 years old. Despite his age, education, and maturity, he was repeatedly involved with the criminal justice system between 2001 and 2006. Although he disclosed criminal and financial issues on his 2004 public trust application, he decided to conceal his criminal conduct on later applications. He compounded this falsification by confirming to the security investigators that he had not been arrested, charged, or convicted of any criminal offenses.

Applicant has made a commendable effort to begin to resolve his debts by hiring and paying a credit counseling firm. It has been successful in deleting some debts from Applicant's credit report. However, that firm does not assist him with paying debts, and he has taken no steps to make payments or initiate payment plans for any of the SOR debts. Currently, his debts are unresolved, with only a promise of future payment. Overall, Applicant has not demonstrated the trustworthiness and good judgment requisite in those who are granted access to classified information.

A fair and commonsense assessment of the available information shows Applicant has not satisfied the doubts raised about his suitability for a security

clearance. For these reasons, I conclude Applicant has not mitigated the security concerns arising from the cited adjudicative guidelines.

### **Formal Findings**

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

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraphs 1.a – 1.g	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a– 2.d	Against Applicant
Subparagraph 2.e	For Applicant
Subparagraphs 2.f – 2.h	Against Applicant
Paragraph 3, Guideline F:	AGAINST APPLICANT
Subparagraphs 3.a. – 3.l	Against Applicant

### **Conclusion**

In light of all of the foregoing, it is not clearly consistent with the national interest to allow Applicant access to classified information. Applicant's request for a security clearance is denied.

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RITA C. O'BRIEN  
Administrative Judge