



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



In the matter of:)
)
XXXXXXXXXX, XXXXX) ISCR Case No. 11-01552
)
Applicant for Security Clearance)

Appearances

For Government: Richard A. Stevens, Esq., Department Counsel
For Applicant: *Pro se*

06/07/2012

Decision

TUIDER, Robert J., Administrative Judge:

Applicant has a history of delinquent debt, and he did not make sufficient progress resolving 15 delinquent debts, totaling about \$57,000. He did not provide accurate information about his delinquent debts on his July 13, 2010, Electronic Questionnaires for Investigations Processing (e-QIP) version of a security clearance application (SF-86). Financial considerations and personal conduct concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On July 13, 2010, Applicant submitted his SF-86. (GE 1) On May 25, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a statement of reasons (SOR) to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; and the adjudicative guidelines (AG) the President promulgated on December 29, 2005.

The SOR alleged security concerns under Guidelines F (financial considerations) and E (personal conduct). The SOR detailed reasons why DOHA was unable to find

that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and it recommended that his case be submitted to an administrative judge for a determination whether his clearance should be granted, continued, denied, or revoked.

On August 12, 2011, Applicant responded to the SOR. On December 9, 2011, Department Counsel indicated he was ready to proceed on Applicant's case. On January 7, 2012, Applicant's case was assigned to an administrative judge. On January 23, 2012, Applicant's hearing was cancelled because Applicant had medical problems. (Tr. 14) On March 28, 2012, DOHA transferred Applicant's case to me. On April 10, 2012, DOHA issued a hearing notice, setting the hearing for May 8, 2012. Applicant's hearing was held as scheduled. At the hearing, Applicant said he was ready for the hearing, and he did not request a delay in his hearing. (Tr. 15) Department Counsel offered four exhibits, and Applicant did not offer any exhibits. (GE 1-4) (Tr. 18-19) There were no objections, and I admitted GE 1-4. (Tr. 19) On May 16, 2012, I received the transcript. The record was held open until May 18, 2012. (Tr. 67-68) No post-hearing documentation was received. (Tr. 67)

Findings of Fact¹

Applicant's SOR response admitted responsibility for debts owed on the accounts in SOR ¶¶ 1.d, 1.i, 1.k, 1.m, 1.o, 1.q, 1.r, and 1.s; however, he denied that he owed the amounts alleged in the SOR for those debts. (Tr. 10-13) In some instances, he was making payments on these SOR debts. (Tr. 10-13) He explained that he believed the medical debt in SOR ¶ 1.s for \$104 should have been paid by Tricare. (Tr. 13) He denied the other SOR allegations with explanations. (Tr. 13-14; HE 4)

Applicant is a 43-year-old employee of a defense contractor. (GE 1) He is an instructor or tutor with an annual salary of \$38,000. (Tr. 22) He joined the Army shortly after graduating from high school. (Tr. 21) Applicant served in the Army from 1988 to 2008. (Tr. 21) He honorably retired from the Army as a staff sergeant (E6). (Tr. 20; GE 1) His military occupational specialties (MOS) were infantry (11B) and mechanized infantry (11M). (Tr. 20) While on active duty, he served in Southwest Asia during Operation Desert Shield/Desert Storm. (Tr. 20)

Applicant has about 52 college credits. (Tr. 25) He married in 1995. (GE 1) His three children are 14, 17, and 18 years old. (Tr. 24) His spouse is not employed outside their home. (Tr. 24)

Financial considerations

Applicant's SOR lists 19 delinquent debts, totaling about \$77,000 as follows:

¹Some details have been excluded in order to protect Applicant's right to privacy. Specific information is available in the cited exhibits.

1.a is a telecommunications collection debt for \$198—UNRESOLVED. Applicant admitted responsibility for the debt. (Tr. 30) Although he remained unsure about the origin of the debt, he said he would pay it. (Tr. 30);

1.b is a telecommunications collection debt for \$391—UNRESOLVED. This debt is documented on Applicant's credit reports. (Tr. 30-31; GE 3, 4) Applicant said that he currently has an active account with the same company, and he contended "there's no way [he] could have a \$391 bill." (Tr. 30) The record was left open to permit Applicant to provide proof that his account was current; however, he did not provide any post-hearing documentation. (Tr. 31);

1.c is a telecommunications collection debt for \$1,087—UNRESOLVED. Applicant denied that he ever had an account with the creditor. (Tr. 31-32) He did not provide evidence that he disputed the listing of this delinquent debt in his credit reports.;

1.d is a charged-off account for \$9,825—UNRESOLVED. Applicant purchased a used 2002 Chevrolet in about 2005. He borrowed about \$11,000 and the creditor placed a lien on the vehicle title. (Tr. 32-37) He made payments for about three or four years, and thought the debt was paid. (Tr. 33-36) The creditor advised him that he owed two more years of monthly payments. (Tr. 33) He stopped making payments, and the creditor repossessed the vehicle in around 2009. (Tr. 33-37);

1.e is a charged-off account for \$313—UNRESOLVED. Applicant admitted responsibility for the debt, and he said he paid it with cash. (Tr. 37) However, he did not provide proof that he paid the debt.;

1.f is a judgment filed by a bank for \$22,639—UNRESOLVED. Applicant purchased a 2002 Dodge; he made payments on it for two or three years; and then it was repossessed. (Tr. 39) The debt has been delinquent since about 2005. (Tr. 40) He planned to pay the debt; however, he objected to the fairness of the post-repossession auction because he thought the creditor should have received more for the vehicle. (Tr. 39-40);

1.g is a collection debt for \$300—DISPUTED. Applicant retained a cable box after he moved. (Tr. 41) He eventually provided the cable box to the cable company, and he believes the cable company erroneously failed to credit him with returning the cable box. (Tr. 41) He did not have a receipt for his return of the cable box. (Tr. 41);

1.h is a telecommunications collection account for \$991—UNRESOLVED. Applicant had a delinquent cell phone bill, which he thought should be about \$325. (Tr. 42) He disputed the amount of the bill; however, he did not provide documentation showing he disputed the debt. (Tr. 43);

1.i is a past-due account for \$4,015—PAYMENT PLAN. The payments are being taken, with Applicant's consent, from his retirement pay. (Tr. 44, 47) The payments are mandatory until the debt is paid. (Tr. 46-47);

1.j is a department store collection account for \$152—UNRESOLVED. Applicant opened an account; however, he did not purchase anything. (Tr. 47) He disputed his responsibility for this debt; however, he did not provide documentation showing he disputed the debt. (Tr. 47);

1.k is a collection-insurance account for \$94—UNRESOLVED. Applicant opened an account with the company; however, he said he made his payment up front. (Tr. 48) He disputed his responsibility for this debt; however, he did not provide documentation showing he disputed the debt. (Tr. 48);

1.l is a bank collection account for \$6,789—UNRESOLVED. Applicant disputed his responsibility for the debt because he did not recognize the name of the account holder. (Tr. 49) According to his credit report, the account was opened in 2004, and high credit was \$3,440. (Tr. 48; GE 3) He did not provide documentation showing he disputed the debt.;

1.m is a vehicle repossession collection account for \$5,231—UNRESOLVED. The creditor repossessed Applicant's 2005 Mercedes vehicle. (Tr. 49) Applicant purchased the used vehicle in December 2004 for \$21,000 and his monthly payment was \$630. (Tr. 51; GE 2 at 180) He used it for more than a year or two. (Tr. 52; GE 2 at 180) He left active duty in 2008, and he was unemployed. (GE 2 at 180) On August 2, 2010, Applicant told an Office of Personnel Management (OPM) investigator that he would pay the debt by 2011. (Tr. 52; GE 2 at 180) He did not make any payments in the last 12 months to the creditor. (Tr. 52);

1.n is a collection account for \$2,498—UNRESOLVED. Applicant was unsure of his responsibility for the debt, and he wanted to investigate it. (Tr. 53) He did not provide documentation or correspondence with the creditor or credit reporting company to show he was diligently investigating his responsibility for the debt.;

1.o is a vehicle repossession collection account for \$15,649—DUPLICATION. This debt is a duplication of the debt in SOR ¶ 1.m. (Tr. 50-51; 53);

1.p is a collection account for \$426—UNRESOLVED. Applicant obtained a loan in 2007, and it became delinquent in 2008. (Tr. 54; GE 3) On August 2, 2010, he told an OPM investigator that he would pay this debt in 2010; however, it remains unpaid. (Tr. 54; GE 2 at 180);

1.q is a telecommunications collection account for \$2,178—UNRESOLVED. Applicant had an account with the creditor from 2007 to 2008. (Tr. 54) He disputed the amount owed to the creditor. (Tr. 55) He told the OPM investigator that he would pay this debt by 2011; however, it remains unpaid. (Tr. 54; GE 2 at 180);

1.r is a collection account for \$4,632—UNRESOLVED. Applicant said the debt was paid in full. (Tr. 56) He did not provide documentation or correspondence with the creditor to show he disputed the debt, or that the debt was paid.; and

1.s is a medical collection account for \$104—DISPUTED. Applicant said his medical was covered by Tricare, and he was unsure of the nature or origin of this medical bill. (Tr. 57-58; HE 3)

Applicant rented his residence with an option to purchase his residence, and his monthly payment is \$1,920. (Tr. 58; GE 2 at 182) His payment to the creditor with a lien on his 2006 Mercedes vehicle is \$787 a month. (Tr. 58-59) He paid a \$10,973 non-SOR debt. (Tr. 59) His April 11, 2011 personal financial statement (PFS) shows the following monthly items: gross salary, including his military retirement, his 100 percent Veterans Affairs disability, and his spouse's annual pay, of \$5,921; deductions of \$2,304; expenses of \$3,166 (includes rent); debt payments of \$1,407; and net remainder of negative \$956. (Tr. 60-62; GE 2 at 182)²

In 2012, Applicant was unemployed for three or four months, and then two weeks before his hearing, he became reemployed by the same employer that laid him off early in 2012. (Tr. 23) His interim clearance was revoked about three or four months ago. (Tr. 26) He will likely be terminated from his employment if his security clearance is not reinstated. (Tr. 27) Applicant has not received financial counseling; however, he planned to obtain financial counseling in the future. (Tr. 66-67) He emphasized that over his many years of service to the Department of Defense he had been entrusted with substantial funds and responsibilities, and there were never any discrepancies or allegations of theft or misappropriation. (Tr. 73) He denied that he was a threat to national security. (Tr. 73)

Personal Conduct

In response to Section 26a of Applicant's July 13, 2010 SF-86, which asked about bankruptcies filed in the last seven years, Applicant indicated he filed a petition for bankruptcy under Chapter 13 of the Bankruptcy Code in 1993 and 1994, and the petition was dismissed. (GE 1)

Section 26m of his July 13, 2010 SF-86 asked whether in the last seven years, "Have you been over 180 days delinquent on any debt(s)?" and Section 26n asked, "Are you currently over 90 days delinquent on any debt(s)?" Applicant responded, "No" to both questions, and he did not disclose the delinquent debts discussed in the previous section.

In his SOR response, Applicant said his failure to disclose his delinquent debts was a mistake; however, he did not describe his state of mind at the time he signed his July 13, 2010 SF-86. (HE 4) At his hearing, he said he did not provide derogatory financial information because "that was my business; that was not the government's [business]." (Tr. 65) He explained that if he was trustworthy enough for the Army to entrust him with expensive Army equipment and the lives of Soldiers, he should be trusted with a security clearance. (Tr. 65) Financial information is personal and many of

²Applicant's PFS is not properly completed, and the numbers on it may be unreliable. Accordingly, I draw no adverse inference from the information on his PFS. (GE 2 at 182)

the debts on his credit reports are disputed. (Tr. 65) He believed “it was not [for] the government to decide, okay, well you’ve had a poor credit history, so we know you’re going to do something wrong.” (Tr. 66) He admitted that he made a mistake in his answers on his SF-86, and he accepted responsibility for his decision. (Tr. 66)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch 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). 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 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.

Eligibility for a security clearance is predicated upon meeting the criteria contained in the adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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. Adverse clearance decisions are made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the [a]pplicant concerned.” See Exec. Or. 10865 § 7. See *also* Executive Order 12968 (Aug. 2, 1995), Section 3. Thus, nothing in this decision should be construed to suggest that I have based this decision on any express or implied determination as to applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the

criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue [his or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, I conclude the relevant security concerns are under Guidelines F (financial considerations), and E (personal conduct) with respect to the allegations set forth in the SOR.

Financial Considerations

AG ¶ 18 articulates the security concern relating to financial problems:

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.

AG ¶ 19 provides two disqualifying conditions that could raise a security concern and may be disqualifying in this case: "(a) inability or unwillingness to satisfy debts;" and "(c) a history of not meeting financial obligations." In ISCR Case No. 08-12184 at 7 (App. Bd. Jan. 7, 2010), the Appeal Board explained:

It is well-settled that adverse information from a credit report can normally meet the substantial evidence standard and the government's obligations under [Directive] ¶ E3.1.14 for pertinent allegations. At that point, the burden shifts to applicant to establish either that [he or] she is not responsible for the debt or that matters in mitigation apply.

(internal citation omitted). Applicant's history of delinquent debt is documented in his credit reports, his SOR response, and his hearing record. Applicant's SOR alleges 19 delinquent debts, totaling about \$77,000. Some debts have been delinquent more than four years. The Government established the disqualifying conditions in AG ¶¶ 19(a) and

19(c), requiring additional inquiry about the possible applicability of mitigating conditions.

Five 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;³ 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.

Applicant's conduct in resolving his debts does not warrant full application of any mitigating conditions to all SOR debts. Four of his SOR debts are mitigated because they are not established, one debt is a duplication, and one debt is in an established payment plan. Although he did not provide proof of any payments to SOR creditors, I credit him with making the payments from his retirement pay to the creditor in SOR ¶ 1.i and with resolving the debt in SOR ¶ 1.g, when he returned his cable box to the cable

³The Appeal Board has previously explained what constitutes a "good faith" effort to repay overdue creditors or otherwise resolve debts:

In order to qualify for application of [the "good faith" mitigating condition], an applicant must present evidence showing either a good-faith effort to repay overdue creditors or some other good-faith action aimed at resolving the applicant's debts. The Directive does not define the term "good-faith." However, the Board has indicated that the concept of good-faith "requires a showing that a person acts in a way that shows reasonableness, prudence, honesty, and adherence to duty or obligation." Accordingly, an applicant must do more than merely show that he or she relied on a legally available option (such as bankruptcy) in order to claim the benefit of [the "good faith" mitigating condition].

(internal citation and footnote omitted) ISCR Case No. 02-30304 at 3 (App. Bd. Apr. 20, 2004) (quoting ISCR Case No. 99-9020 at 5-6 (App. Bd. June 4, 2001)).

company. The debt in SOR ¶ 1.o duplicated the debt in SOR ¶ 1.m. The medical debt in SOR ¶ 1.s for \$104 should be reviewed by Tricare, and Applicant should be provided an explanation of benefits form from Tricare before he is deemed responsible for paying it. Although he did not provide any correspondence from or to creditors that he paid or resolved these four debts, I am crediting him with mitigating them. Except for the debts in SOR ¶¶ 1.i and 1.o, they are relatively modest debts, and it is reasonable for him not to have corroborating documentation.

Applicant fell behind on his debts because of the costs of daily living, his spouse's unemployment, and his own unemployment. He did not receive financial counseling. He showed some good faith when he admitted responsibility for some of his SOR debts in his SOR response and at his hearing.

Applicant has not taken reasonable actions to resolve most of his SOR debts. He did not provide documentation proving that he maintained contact with his SOR creditors, and he did not provide any documentation showing his attempts to negotiate payment plans with his SOR creditors.⁴ There is insufficient evidence that his financial problem is being resolved and is under control. He did not establish his financial responsibility.

Personal Conduct

AG ¶ 15 expresses the security concern pertaining to 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.

AG ¶ 16 describes one condition that could raise a security concern and may be disqualifying in this case:

(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.

⁴Even if Applicant's financial difficulties initially arose, in whole or in part, due to circumstances outside his [or her] control, the Judge could still consider whether Applicant has since acted in a reasonable manner when dealing with those financial difficulties." ISCR Case No. 05-11366 at 4 n.9 (App. Bd. Jan. 12, 2007) (citing ISCR Case No. 99-0462 at 4 (App. Bd. May 25, 2000); ISCR Case No. 99-0012 at 4 (App. Bd. Dec. 1, 1999); ISCR Case No. 03-13096 at 4 (App. Bd. Nov. 29, 2005)). A component is whether he or she maintained contact with creditors and attempted to negotiate partial payments to keep debts current.

AG ¶ 16(a) applies. Section 26m of his July 13, 2010 SF-86 asked whether in the last seven years, “Have you been over 180 days delinquent on any debt(s)?”, and Section 26n asked, “Are you currently over 90 days delinquent on any debt(s)?” Applicant responded, “No” to both questions, and he did not disclose his delinquent debts. Inquiry about the applicability of mitigating conditions is required.

AG ¶ 17 provides seven conditions that could mitigate security concerns in this case:

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

(b) 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 clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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;

(d) 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;

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

None of the mitigating conditions apply to all of the disqualifying conditions. The allegation in SOR ¶ 2.a that he intentionally failed to disclose derogatory information about his delinquent debts is substantiated. He admitted that he intentionally failed to disclose his delinquent debts because he did not believe it was relevant to his worthiness to hold a security clearance. He showed some remorse when he acknowledged that the omission of the derogatory financial information was a mistake,

and he regretted his decision. His intentional falsification of his July 13, 2010 SF-86 is recent, serious, and not mitigated.

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 the Applicant's conduct and all the 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 have incorporated my comments under Guidelines F and E in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

There are some facts supporting mitigation of security concerns under the whole-person concept; however, they are insufficient to fully mitigate security concerns. Applicant served his country as an infantry Soldier from 1988 to 2008, including in a combat zone during Operation Desert Shield/Storm. He is a 100 percent disabled veteran. He contributed to national defense while working for the Defense contractor. During his years of active duty service, he was entrusted with valuable and dangerous Army equipment, and the lives of Soldiers, and he never abused that trust. He is 43 years old, and I am confident that he has the ability and maturity to comply with security requirements. He understands the importance of being honest on his SF-86. Some circumstances beyond his control, such as insufficient income, underemployment, and unemployment adversely affected his financial circumstances. He is an intelligent person who knows what he must do to establish his financial responsibility. There is no evidence of security violations, disloyalty, or that he would intentionally violate national security. His admission that he intentionally falsified his July 13, 2010 SF-86 is an important step towards rehabilitation and mitigation of security concerns.

The evidence against approval of Applicant's clearance is more substantial at this time. Applicant failed to mitigate 15 delinquent SOR debts, totaling about \$57,000. He failed to prove that he could not have made greater progress resolving and documenting resolution of his SOR debts. In 2010, he told an OPM investigator that he would pay several debts, and he failed to do so. He knowingly and intentionally failed to

disclose derogatory financial information on his July 13, 2010 SF-86 because he did not believe the requirement to disclose such information was necessary or relevant to entrusting him with access to classified information. His failure to fully and candidly disclose negative information on his July 13, 2010 SF-86 shows lack of judgment and “raise[s] questions about [Applicant’s] reliability, trustworthiness and ability to protect classified information.” See AG ¶ 15.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations and personal conduct concerns are not mitigated. For the reasons stated, I conclude he is not eligible for access to classified information.

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 to 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant
Subparagraph 1.h:	Against Applicant
Subparagraphs 1.i:	For Applicant
Subparagraphs 1.j to 1.n:	Against Applicant
Subparagraph 1.o:	For Applicant
Subparagraphs 1.p to 1.r:	Against Applicant
Subparagraph 1.s:	For Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraphs 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 national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

ROBERT J. TUIDER
Administrative Judge