DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
[Redacted]	)	ISCR Case No. 11-07821
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: Alan V. Edmunds, Esq.

11/16/2012

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Decision

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FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines F (Financial Considerations) and E (Personal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on October 20, 2010. On June 27, 2012, the Defense Office of Hearings and Appeals (DOHA) notified him that it was unable to find that it was clearly consistent with the national interest to grant him access to classified information, and it recommended that his case be submitted to an administrative judge for a determination whether to grant or deny his application. DOHA set forth the basis for its action in a Statement of Reasons (SOR), citing security concerns under Guidelines F and E. DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the Department of Defense on September 1, 2006.

Applicant received the SOR on July 30, 2012; answered it on August 7, 2012, denying all the allegations in the SOR; and requested a hearing before an administrative judge. Department Counsel was ready to proceed on September 1, 2012, and the case was assigned to me on September 7, 2012. DOHA issued a notice of hearing on September 20, 2012, scheduling it for October 9, 2012. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 6 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through T, which were admitted without objection. I kept the record open to enable him to submit signed copies of AX A through H and additional documentary evidence. (Tr. 9.) He timely submitted exhibits labeled as AX A through FF, which were admitted without objection. Department Counsel's comments regarding Applicant's post-hearing submissions are attached to the record as Hearing Exhibit (HX) I. DOHA received the transcript (Tr.) on October 24, 2012.

Applicant's post-hearing exhibit list purported to include the exhibits previously marked and admitted. It correctly listed the signed copies of AX A through H and an updated version of AX I, but it omitted AX J through T, which were marked and admitted during the hearing. By order dated November 8, 2012, I corrected the lettering of the exhibits and the post-hearing exhibit list. My order, Applicant's original exhibit list, and the corrected post-hearing exhibit list are attached to the record as HX II.

Findings of Fact

Applicant is a 55-year-old systems engineer employed by a defense contractor since January 1997. He has worked for defense contractors since May 1988. He has held a security clearance since April 1980. (Tr. 19; GX 3 at 23.)

Applicant is a native of Greece. He came to the United States in September 1972 and became a U.S. citizen in May 1983. (GX 1 at 9.) He served in the U.S. Marine Corps from August 1976 to September 1978, and received an honorable discharge. He married in July 1989. His wife is a native of Greece and a naturalized citizen of the United States. They have three children, ages 17, 14, and 6. He received a bachelor's degree in aeronautical engineering in 1979 and a master's degree in management of science technology in February 2006. (GX 3 at 21; Tr. 20.)

In 2000, Applicant's father gave him a house in Greece that is now worth about $175,000. His parents still live in the house, and Applicant stays there when he visits them. (GX 3 at 16.)

The delinquent medical bill alleged in SOR ¶ 1.a was incurred when Applicant obtained an eye examination. He testified that he refused to pay the $96 bill because he thought the examination was free. The bill was referred for collection in December 2010. (GX 5 at 1; Tr. 27-31.) Applicant testified that he contacted the doctor's office, and that the doctor's office personnel would not discuss the matter except to inform him the bill had been sent to a collection agency. (Tr. 69.) He did not offer any testimonial or documentary evidence to show why he thought the eye examination was free. He has

not disputed the debt with the credit reporting agencies or made any further effort to resolve it.

In June or July 2010, Applicant enrolled in a debt consolidation program, after he started receiving letters from collection companies. (Tr. 49.) In August or September 2010, Applicant learned that the creditors alleged in SOR ¶¶ 1.b and 1.d would not deal with his debt consolidation company. (GX 3 at 15; Tr. 49-51.) He contacted both creditors with a view toward resolving the debts. The creditor in SOR ¶ 1.b offered to settle the $22,370 debt for $19,000, to be paid in three installments. Applicant was unable to make the payments, and he asked the creditor for a less onerous payment plan. He continued to make monthly payments to the debt consolidation company until about December 2010, when he terminated the relationship because the fees were too high and the debts were not being paid. (GX 3 at 13; Tr. 34-35, 50-51.)

In January 2012, Applicant accepted an offer to settle the $6,907 debt alleged in SOR ¶ 1.d (which had risen to $7,357) for $3,600, to be paid in 24 monthly payments of $150. As of the date of the hearing, he had timely made nine monthly payments. (GX 3 at 5; AX K.) In May 2012, Applicant accepted an offer to settle the $22,370 debt alleged in SOR ¶ 1.b for $13,422, to be paid in monthly $560 installments. As of the date of the hearing, he had timely made the first four monthly payments. (GX 3 at 6; AX J.)

In response to DOHA interrogatories in May 2012, Applicant stated that he had made no payments on the debts alleged in SOR ¶¶ 1.c, 1.d, 1.e, and 1.f. (GX 3 at 2-3.) On October 2 and October 8, 2012, he disputed the amounts of the $10,482 credit card account alleged in SOR ¶ 1.c, the $13,299 credit card debt alleged in SOR ¶ 1.e, and the $48,000 credit card debt alleged in SOR ¶ 1.f. The documentation of the disputes does not reflect the basis for disputing the amount of the debts. In each case, he simply stated, “My account balance is incorrect.” He testified that he will begin making payments as soon as he and the creditors agree on the balances due. (Tr. 29-31; AX R, S, and T.) He had not received a response to his disputes as of October 23, 2012, the date the record closed.

After the hearing, Applicant provided evidence of his unsuccessful attempts to obtain documents from the creditor and collection agency alleged in SOR ¶ 1.f. He provided a copy of his August 2010 statement from this creditor, but was unable to provide other documents because they were lost when his residence was flooded. His records show an August 2010 balance of $36,869, of which $13,212 was past due. (AX RR.)

The debt alleged in SOR ¶ 1.g is a delinquent home mortgage. In June 2004, Applicant and his wife purchased their current home for about $845,000. They made a down payment of $195,000 and borrowed $650,000 with an adjustable-rate mortgage. The initial interest rate was 2.5%, but it increased to 8% after the first year. Applicant testified that his monthly payments increased from $2,475 to about $4,995. (Tr. 38.) He testified that he knew that he had an adjustable-rate mortgage, but he did not realize at the time that there was no cap on the interest rate. The mortgage prohibited him from

refinancing or modifying the loan for three years. The penalty for refinancing or modifying the loan was 15% of the original amount of the loan. (Tr. 74-75.)

Applicant's spouse, who had been earning about $45,000 per year, was laid off in 2009. At about the same time, Applicant's opportunity to work overtime was restricted, and their son was born. He testified that the he was unable to afford the increased house payments, and he began taking cash advances on his credit cards to make the house payments. As of the date of the hearing, Applicant had paid about $224,000 in interest, but the principal remained at about $652,000. (Tr. 72.)

In September 2009, Applicant contacted his home mortgage lender and asked for a loan modification, but he was unsuccessful. (GX 3 at 8.) In April 2010, Applicant's application for a loan modification under the Home Affordable Modification Program (HAMP) was rejected, because his payments (including principal, interest, insurance, and homeowner's dues, if any) were less than 31% of his gross monthly income. (AX DD.) He was rejected for a HAMP loan modification at least three more times between July 12, 2010, and January 17, 2011. (AX EE through JJ.)

On May 10, 2010, Applicant sent the lender a check for $2,824. His check was returned on May 18, 2010, because it was not sufficient to bring the account current and was not the amount reflected on a notice of foreclosure that had previously been sent to him. (AX AA.) On December 10, 2010, Applicant sent two checks totaling $3,000 to the lender, and they were returned on December 20, 2010, because they were insufficient to bring the account up to date. (AX BB and CC.)

In January 2012, he was notified by the lender that he was approved for entry into a trial period under the HAMP. To accept the offer, he was required to make three consecutive monthly payments of $3,232. (AX L.) He testified that he was surprised when his mortgage was reflected on his credit report as delinquent, because he thought he had an agreement with the bank to not report it as delinquent while negotiations were continuing. (Tr. 31.) He did not accept the offer because he hoped to negotiate better terms. (Tr. 67.) His September 2012 credit report reflects that he has not made any payments on the mortgage since January 2011, and the debt is delinquent in the amount of about $83,000. (GX 3 at 3; GX 4 at 3; AX P at 4; Tr. 60.)

Applicant testified that he believes he was defrauded when the mortgage company sold him a securitized mortgage that was traded through the Mortgage Electronic Registration System (MERS).[1] In December 2010, he retained an attorney and filed complaints with the state attorney general and the state banking association. (Tr. 22-24.) He complained that his mortgage was a "pick-a-payment" mortgage, in which a borrower may select a lower payment that increases the loan principal by covering less than the monthly interest owed. In March 2011, Applicant joined a class-

[1] Foreclosure of loans traded under MERS is often complicated by the difficulty in determining who is legally entitled to foreclose on the property. (AX MM and NN.) Although the record reflects that Applicant was notified several times that his loan might be referred for foreclosure (AX FF, GG, and HH), the record does not reflect any pending foreclosure action involving Applicant's home.

action lawsuit against the lender. The lawsuit claims that the lender did not notify borrowers that their payments could result in negative amortization. (AX OO, PP, and QQ.) The lawsuit was settled when the lender agreed to principal write-downs, interest-rate reductions, and other concessions. (AX K, L, and M.)

Applicant testified that he is able and willing to pay the mortgage debt if it is at a legal rate of interest and the negative amortization is deducted from the principal amount of his loan. (Tr. 71.) It is not clear what relief, if any, Applicant received as a result of the lawsuit. His most recent credit report reflects that his monthly payments are $2,875, but it does not reflect any reduction of the principal amount of the loan. (GX 4 at 3; GX 5 at 3; AX P at 4 and 29.)

Applicant testified that some of his credit card purchases were declined by the credit card issuers during the 2007-2009 timeframe, but he could not remember more specifically when they were declined. (Tr. 40-42.). His credit report dated October 27, 2010 reflected that the credit card account alleged in SOR ¶ 1.b was referred for collection in January 2009, the account alleged in SOR ¶ 1.c was referred for collection in April 2009, the account alleged in SOR ¶ 1.d was referred for collection in June 2009, and the account alleged in SOR ¶ 1.e was referred for collection in April 2009. (GX 6 at 6, 16, and 17.) The same credit report reflects that the creditor alleged in SOR ¶ 1.f referred an account for collection in November 2008, but the account number does not match the account alleged in the SOR. (GX 6 at 11.)

When Applicant submitted his SCA in October 2010, he answered "No" to question 26g ("Have you had bills or debts turned over to a collection agency?"), question 26h ("Have you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed?"), question 26m ("Have you been over 180 days delinquent on any debt(s)?"), and question 26n ("Are you currently over 90 days delinquent on any debt(s)?"). In November 2010, he told a security investigator that he answered "No" to the financial questions because none of his debts had been referred for collection, none of his credit cards had been suspended, and he did not believe that his debts were delinquent because he was engaged in negotiations to keep them from becoming delinquent. (GX 3 at 23-24.) At the hearing, he testified that he believed that all his accounts were current when he submitted his SCA. (Tr. 37-38.)

Applicant earns $127,750 per year. (AX I; Tr. 35.) He has a 401k retirement account worth about $550,000. (AX J; Tr. 22.) He also owns two rental properties that produce a total of about $3,900 per month. (Tr. 63; AX I and U.) In September 2012, he completed two courses in "Setting Your Financial Goals and Creating a Budget" and "Understanding Credit and Credit Reports." (AX N and O.)

Applicant submitted eight letters from his immediate supervisor, a program director, and six colleagues. The letters uniformly speak highly of his technical skills, personal integrity, dedication, and loyalty to the United States. His immediate supervisor states that he trusts him implicitly. He has distinguished himself as an engineer and a

manager while working with allies of the United States on ballistic missile defense systems. (AX A through H.)

Policies

"[N]o 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 applicants 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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines 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 that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See* Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance 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. 92-1106 at 3, 1993 WL 545051 at *3 (App. Bd. Oct. 7, 1993).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[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

Guideline F, Financial Considerations

The SOR alleges seven delinquent debts totaling about $170,399. The concern under this guideline is set out in AG ¶ 18:

> Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

This concern is broader than the possibility that an applicant might knowingly compromise classified information in order to raise money. It encompasses concerns about an applicant's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. *See* ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

A security clearance adjudication is aimed at evaluating an applicant's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010.) An applicant is not required, as a matter of law, to establish resolution of every debt alleged in the SOR. An applicant need only establish a plan to resolve financial problems and take significant actions to implement the plan. There is no requirement that an applicant make payments on all delinquent debts simultaneously, nor is there a requirement that the debts alleged in the SOR be paid first. *See* ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008).

Applicant's credit reports, his multiple interviews with security investigators, and his testimony at the hearing establish the following disqualifying conditions under this guideline:

AG ¶ 19(a): inability or unwillingness to satisfy debts;

AG ¶ 19(c): a history of not meeting financial obligations; and

AG ¶ 19(e): consistent spending beyond one's means, which may be indicated by excessive indebtedness, significant negative cash flow, high debt-to-income ratio, and/or other financial analysis.

The following mitigating conditions under this guideline are potentially relevant:

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(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;

AG ¶ 20(d): the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

AG ¶ 20(e): the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's debts are numerous and most of them are unresolved. However, his delinquent mortgage and the credit card debts he incurred in his efforts to make his mortgage payments are circumstances unlikely to recur. He has learned from his mistake, and he is unlikely to enter into any more deceptive mortgages. On the other hand, the delinquent medical debt alleged in SOR ¶ 1.a is unrelated to Applicant's mortgage and credit card problems. I conclude that AG ¶ 20(a) is applicable to the debts alleged in SOR ¶ 1.b-1.g, but not to the debt alleged in SOR ¶ 1.a.

The medical debt did not arise from circumstances beyond Applicant's control. However, he encountered a condition beyond his control when his wife lost her job. The abrupt rise in the interest rate on his mortgage was arguably within his control, because he voluntarily agreed to the terms of the mortgage. However, the evidence indicates that he was the victim of deceptive mortgage practices, which were beyond his control. He acted responsibly regarding his mortgage and credit card debts alleged in SOR ¶¶

1.b and 1.d. He has not acted responsibly regarding the medical debt and the credit card debts alleged in SOR ¶¶ 1.c, 1.e, and 1.f. I conclude that AG ¶ 20(b) is applicable to the debts alleged in SOR ¶¶ 1.b, 1.d, and 1.g, but not the other debts alleged in the SOR.

Applicant sought advice from a debt management company and a lawyer and completed two financial planning courses. However, the medical debt, credit card debts alleged in 1.c, 1.e, and 1.f, and the mortgage debt are not resolved. I conclude that AG ¶ 20(c) is applicable to the debts alleged in SOR ¶¶ 1.b and 1.d, but not the other debts alleged in the SOR.

Applicant sought to resolve the credit card debts in SOR ¶¶ 1.b and 1.d through a debt consolidation company, and later he negotiated with the creditors directly. He is making payments on both debts. He also tried repeatedly to resolve his mortgage debt, and he repeatedly tendered partial payments, which were rejected. I conclude that AG ¶ 20(d) is applicable to the credit card debts alleged in SOR ¶¶ 1.b and 1.d and the mortgage debt alleged in SOR ¶ 1.g, but it is not applicable to the other debts alleged in the SOR.

Applicant disputed the medical debt alleged in SOR ¶ 1.a, but he offered no testimonial or documentary evidence to explain why he reasonably believed that the eye examination was free. After taking no action on the credit card debts alleged in SOR ¶¶ 1.c, 1.e, and 1.f for more than two years, he disputed the amounts of these debts shortly before the hearing, but he offered no testimonial or documentary evidence showing why he thought the balances were incorrect or what he believed his balances should be. The timing of his disputes and the absence of any articulation of the basis for the dispute suggests that he is using the dispute mechanism as a bargaining tool to negotiate a settlement for less than the full amount due.

Applicant has disputed the amount due on the mortgage debt alleged in SOR ¶ 1.g and has documented the basis for his dispute. I conclude that AG ¶ 20(e) is applicable to the mortgage debt alleged in SOR ¶ 1.g, but not the other debts alleged in the SOR.

Guideline E, Personal Conduct

The SOR alleges that Applicant falsified his SCA by answering "No" to four questions about delinquent debts:

> Question 26g: "Have you had bills or debts turned over to a collection agency?" (SOR ¶ 2.a);
>
> Question 26h: "Have you had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed?" (SOR ¶ 2.b);

Question 26m: "Have you ever been over 180 days delinquent on any debt(s)?" (SOR ¶ 2.c); and

Question 26n: "Are you currently over 90 days delinquent on any debts(s)?" (SOR ¶ 2.d).

The concern under this guideline is set out in AG ¶ 15 as follows:

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 relevant disqualifying condition in this case is AG ¶ 16(a):

[D]eliberate 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.

When a falsification allegation is controverted, as in this case, the Government has the burden of proving it. An omission, standing alone, does not prove falsification. An administrative judge must consider the record evidence as a whole to determine an applicant's state of mind at the time of the omission. *See* ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004).

An applicant's level of education and business experience are relevant to determining whether a failure to disclose relevant information on a security clearance application was deliberate. ISCR Case No. 08-05637 (App. Bd. Sep. 9, 2010). Applicant is well-educated, has worked for federal contractors for 24 years, and has held a security clearance for 32 years. He has worked with foreign military officials on ballistic missile defense. He was articulate and responsive at the hearing. He owns two rental properties that generate significant income. He successfully negotiated settlements of two large credit card accounts alleged in SOR ¶¶ 1.b and 1.d.

The delinquent medical account was referred to a collection company after Applicant submitted his SCA. However, he admitted that he sought help from a debt consolidation company several months before he submitted his SCA, after he started receiving letters from collection companies regarding his delinquent credit card accounts. He also admitted that his credit cards were declined during 2008 and 2009. I conclude that Applicant deliberately falsified his answers to questions 26g and 26h.

On the other hand, I am not satisfied that Applicant knew that his mortgage payments were being reported to the credit reporting agencies as delinquent at the time he submitted his SCA. His credit card debts were being handled by the debt consolidation company until at least December 2010, after he submitted his SCA. Thus, I conclude that the disqualifying condition in AG ¶ 16(a) is raised by his negative answers to questions 26g and 26h, but it is not raised by his negative answers to questions 26m and 26n.

Two mitigating conditions are potentially relevant:

> AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts; and
>
> 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.

AG ¶ 17(a) is not established, because Applicant made no effort to correct his answers to questions 26g and 26h. To the contrary, he told a security investigator in January 2011 that he had no accounts referred for collection and no credit cards had ever been suspended at the time he submitted his application. (GX 3 at 23.)

AG ¶ 17(c) is not established. Applicant's falsifications were not minor because they undermined the integrity of the security clearance process. They were recent, because they pertained to his current SCA and he persisted in his falsifications as recently as his January 2011 security interview. His falsifications occurred during a routine revalidation of his security clearance and did not occur under unique circumstances.

Whole-Person Concept

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. In applying the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. An 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.

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.

Applicant is mature, intelligent, and well-educated. He served honorably in the U.S. Marine Corps and has been a valued employee for many years. He has held a security clearance for about 32 years, apparently without incident. The small medical debt, standing alone, has minimal security significance, except to the extent that it demonstrates Applicant's attitude toward his financial obligations. He took out a large mortgage, not fully realizing the implications of its terms, and he tried to stay current on his mortgage payments by using cash withdrawals from his credit card accounts. He has acted responsibly regarding his mortgage debt, but he has taken a hardline approach to his credit card debts, using the dispute mechanism to negotiate and not making payments until the creditor offers a settlement that Applicant considers fair. He has the financial means to settle the medical bill and all his credit card debts, but he has chosen to haggle about the amounts due. He was understandably concerned about the impact of his indebtedness on his security clearance, and he was not completely candid about his financial situation when he submitted his most recent SCA.

After weighing the disqualifying and mitigating conditions under Guidelines F and E, evaluating all the evidence in the context of the whole person, and mindful of my obligation to resolve close cases in favor of national security, I conclude Applicant has not mitigated the security concerns based on his financial problems and his personal conduct. Accordingly, I conclude he has not carried his burden of showing that it is clearly consistent with the national interest to continue his eligibility for access to classified information.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F (Financial Considerations): AGAINST APPLICANT

Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	Against Applicant
Subparagraph 1.f:	Against Applicant
Subparagraph 1.g:	For Applicant

Paragraph 2, Guideline E (Personal Conduct):	AGAINST APPLICANT
Paragraphs 2.a-2.b:	Against Applicant
Paragraphs 2.c-2.d:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

LeRoy F. Foreman
Administrative Judge