



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



In the matter of:

Applicant for Security Clearance

)
)
)
)
)

ISCR Case No. 12-03377

Appearances

For Government: Caroline E. Heintzelman, Esquire, Department Counsel
For Applicant: *Pro se*

05/29/2015

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant has failed to mitigate the security concerns regarding financial considerations and personal conduct. Eligibility for a security clearance and access to classified information is denied.

Statement of the Case

On December 20, 2011, Applicant applied for a security clearance and submitted an Electronic Questionnaire for Investigations Processing (e-QIP) version of a Security Clearance Application (SF 86).¹ On June 28, 2013, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued him a set of interrogatories. He responded to the interrogatories on September 6, 2013.² On August 6, 2014, the DOD CAF issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and the

¹ Item 4 (SF 86, dated December 20, 2011).

² Item 5 (Applicant's Answers to Interrogatories, dated September 6, 2013).

Adjudicative Guidelines for Determining Eligibility For Access to Classified Information (December 29, 2005) (AG) applicable to all adjudications and other determinations made under the Directive, effective September 1, 2006. The SOR alleged security concerns under Guideline F (Financial Considerations) and Guideline E (Personal Conduct), and detailed reasons why the DOD CAF was unable to make an affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

It is unclear when Applicant received the SOR as there is no receipt in the case file. In a statement, notarized September 5, 2014, Applicant responded to the SOR allegations and elected to have his case decided on the written record in lieu of a hearing.³ A complete copy of the Government's file of relevant material (FORM) was provided to Applicant on February 23, 2015, and he was afforded an opportunity, within a period of 30 days after receipt of the FORM, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Guidelines applicable to his case. Applicant received the FORM on March 12, 2015. Although the memorandum to me indicated that Applicant had submitted information in response to the FORM,⁴ there is nothing from him in the case file. The case was assigned to me on May 20, 2015.

Findings of Fact

In his Answer to the SOR, Applicant admitted one of the factual allegations pertaining to financial considerations in the SOR (§ 1.a.). He denied the remaining allegations pertaining to financial considerations and personal conduct. Applicant's admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 42-year-old employee of a defense contractor. He has been serving as a software quality engineer with his current employer since October 2014.⁵ He was previously unemployed from July 2006 until October 2006.⁶ Applicant graduated from high school in 1992.⁷ He enlisted in the U.S. Air Force and served on active duty from September 1992 until September 1996 when he was discharged under other than honorable conditions (UOTHC).⁸ He was granted a top secret security clearance in

³ Item 3 (Applicant's Answer to the SOR, dated September 5, 2014).

⁴ Memorandum, dated May 19, 2015.

⁵ Item 4, *supra* note 1, at 10-11.

⁶ Item 4, *supra* note 1, at 12.

⁷ Item 4, *supra* note 1, at 9-10.

⁸ Item 4, *supra* note 1, at 15-16. The specifics surrounding his UOTHC will be discussed further below.

1992.⁹ Applicant was married in August 1996, and divorced two weeks later that same month after he found out his wife was cheating on him.¹⁰ He has one daughter from another relationship, born in 2005.¹¹

Financial Considerations and Personal Conduct

It is unclear when Applicant first experienced financial difficulties, but a review of his December 2011 credit report reveals¹² at least one delinquent account as early as 2008.¹³ That account was charged off and the balance was eventually paid off.¹⁴ Applicant claimed that in 1996, he was under a lot of stress because he had some financial problems “due to not being reasonable as an adult and not reaching out for help when [he] realized that [he] needed help.”¹⁵ Other accounts became delinquent in 2010.¹⁶

In early 1996, upon his arrival at his new duty station, Applicant used his government credit card to rent a motor vehicle for one week. He failed to return the vehicle and charges continued to accrue. He informed his commander of the unauthorized continued use of the credit card, and the matter was referred to the base legal office. Applicant was charged with violations of Article 92, Uniform Code of Military Justice (UCMJ), for the unauthorized use of his government credit card; Article 107, UCMJ, for making a false official statement with intent to deceive (related to the credit card balance); and Article 107, UCMJ, for making false official statements with intent to deceive (related to an additional \$1,000 charge). Rather than face a court-martial, Applicant submitted the paperwork for an administrative discharge in lieu of a court-martial, and he was discharged with the UOTHC.¹⁷

It is unclear how or why Applicant’s finances deteriorated to the point where his accounts were not timely addressed by him to prevent them from becoming delinquent, placed for collection, or charged off. Applicant reported no major illnesses or other significant issues such as a loss of employment, divorce, or other unexpected incidents that were largely beyond his control. Applicant has offered no documentation to support

⁹ Item 4, *supra* note 1, at 28-29.

¹⁰ Item 4, *supra* note 1, at 18; Item 5 (Personal Subject Interview, dated February 1, 2012), at 1; Item 10 (Affidavit, dated March 10, 2014), at 1.

¹¹ Item 4, *supra* note 1, at 20-21.

¹² Item 9 (Combined Experian, TransUnion, and Equifax Credit Report, dated December 24, 2011).

¹³ Item 9, *supra* note 12, at 6.

¹⁴ Item 9, *supra* note 12, at 6.

¹⁵ Item 10, *supra* note 10, at 1.

¹⁶ Item 7 (Equifax Credit Report, dated April 14, 2014), at 1-2.

¹⁷ Item 10, *supra* note 10, at 1-2.

any plan or positive action with his creditors. There is no evidence to indicate that Applicant ever received financial counseling.

In August 2013, Applicant submitted a personal financial statement indicating his net monthly income was \$2,142.48; and his monthly household or debt expenses were \$946; leaving him \$1,196.48 remaining at the end of each month for discretionary use or savings.¹⁸ Applicant's annual salary was \$62,318.¹⁹

(SOR ¶ 2.a.): On December 20, 2011, when Applicant completed his e-QIP, he responded to questions pertaining to his financial record. Three of those questions in Section 26 – Financial Record (Delinquency Involving Routine Accounts) – asked if, in the past seven years, he had bills or debts turned over to a collection agency; if he had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed; if he was currently over 120 days delinquent on any debt (include financial obligations for which you are the sole debtor, as well as those for which you are a co-signer or guarantor)? Applicant answered “no” to those questions. He certified that the responses were “true, complete, and correct” to the best of his knowledge and belief,²⁰ but the responses to those questions were, in fact, false for at that time Applicant had several accounts that were either placed for collection, charged off, or cancelled. He subsequently said that he was not sure why he answered those questions the way he did.²¹ He later denied intending to falsify his response, and explained that when he completed the e-QIP, he had no knowledge of his debts as he had not previously obtained a credit report.²²

The SOR identified four purportedly continuing delinquent debts totaling approximately \$11,863 that had been placed for collection or charged off, as reflected by a December 2011 credit report;²³ a June 2013 credit report;²⁴ an April 2014 credit report;²⁵ and a July 2014 credit report.²⁶ Those debts and their respective current status, according to the credit reports and Applicant's admissions regarding the same, are described below.

¹⁸ Item 5 (Personal Financial Statement, dated August 1, 2013).

¹⁹ Item 5 (Paycheck Print, dated August 12, 2013).

²⁰ Item 4, *supra* note 1, at 30-31.

²¹ Item 5 (Personal Subject Interview), *supra* note 10, at 2.

²² Item 3, *supra* note 3, at 2-3.

²³ Item 9 (Combined Experian, TransUnion, and Equifax Credit Report, dated December 24, 2011).

²⁴ Item 8 (Equifax Credit Report, dated June 21, 2013).

²⁵ Item 7 (Equifax Credit Report, dated April 14, 2014).

²⁶ Item 6 (Equifax Credit Report, dated July 11, 2014).

(SOR ¶ 1.a.): There is a bank automobile loan with an unpaid balance of \$10,142 that was placed for collection and charged off.²⁷ Applicant explained that in 2010, he was involved in an automobile accident with an uninsured motorist, and the incident was not covered by Applicant's insurance policy. Since he could not afford the repairs, estimated to be \$10,000, he voluntarily returned the vehicle to the bank, assuming it would be sold at auction. At the time the vehicle was surrendered, Applicant owed about \$9,000 on the loan. Although he had no intention of paying the debt, when he was interviewed by an investigator from the U.S. Office of Personnel Management (OPM) in February 2012, Applicant changed his mind and said he would attempt to negotiate a settlement with the creditor.²⁸ As of the date he responded to the SOR, Applicant had taken no steps to resolve the debt.²⁹ The account has not been resolved.

(SOR ¶ 1.b.): There is a credit union account that was opened in 2009 and closed in 2010 before one check had cleared, leaving an overdraft balance of \$518. The account was placed for collection and charged off.³⁰ Applicant acknowledged receiving a collection notice from the creditor, but he "never got around to pay the debt and forgot about it."³¹ During his OPM interview, Applicant said he would make arrangements to pay off the debt immediately.³² Although Applicant contended he subsequently paid the account in full,³³ he failed to submit any documentation to support his contention. In the absence of such documentation, I conclude that the account has not been resolved.

(SOR ¶ 1.c.): There is a medical debt for treatment received by Applicant in 2008 in the amount of \$264 that was placed for collection.³⁴ Applicant claimed that he was under the impression the bill had been paid by his insurance, and he never thought about it. During his OPM interview, Applicant said he would make arrangements to pay off the debt immediately.³⁵ As of the date he responded to the interrogatories, Applicant had taken no steps to resolve the debt.³⁶ The account has not been resolved.

²⁷ Item 9, *supra* note 23, at 8-9; Item 8, *supra* note 24, at 2; Item 7, *supra* note 25, at 2; Item 6, *supra* note 26, at 1.

²⁸ Item 5 (Personal Subject Interview), *supra* note 10, at 3.

²⁹ Item 3, *supra* note 3, at 1. See also Item 5 (Applicant's Answers to Interrogatories), *supra* note 2, at 11.

³⁰ Item 9, *supra* note 23, at 7, 9; Item 8, *supra* note 24, at 1; Item 7, *supra* note 25, at 2; Item 6, *supra* note 26, at 1-2.

³¹ Item 5 (Personal Subject Interview), *supra* note 10, at 3.

³² Item 5 (Personal Subject Interview), *supra* note 10, at 3.

³³ Item 5 (Applicant's Answers to Interrogatories), *supra* note 2, at 10.

³⁴ Item 9, *supra* note 23, at 6; Item 8, *supra* note 24, at 1; Item 7, *supra* note 25, at 2; Item 6, *supra* note 26, at 1.

³⁵ Item 5 (Personal Subject Interview), *supra* note 10, at 2-3.

³⁶ Item 5 (Applicant's Answers to Interrogatories), *supra* note 2, at 10.

(SOR ¶ 1.d.): There is a bank credit card account with a balance of \$300 that was placed for collection and sold to a debt purchaser.³⁷ The new creditor increased the unpaid balance initially to \$939, and then to \$990.³⁸ Applicant acknowledged using the credit card for everyday expenses, including food, gas, clothing, and entertainment, and gave it to his girlfriend to use because her credit was too poor to obtain her own card. She agreed to pay for her charges, but did not. Instead, she charged up to \$800 before Applicant took the card from her.³⁹ Applicant called the original creditor and explained the circumstances, but the bank said he was still responsible for the charges. He disagreed and never made any payments.⁴⁰ During his OPM interview, Applicant said he would make arrangements with the new creditor to settle the debt.⁴¹ As of the date he responded to the interrogatories, and later to the SOR, Applicant had taken no steps to resolve the debt.⁴² The account has not been resolved.

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, “no one has a ‘right’ to a security clearance.”⁴³ 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. The President has authorized the Secretary of Defense or his designee to grant an applicant eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.”⁴⁴

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The

³⁷ Item 9, *supra* note 23, at 6, 9; Item 8, *supra* note 24, at 1.

³⁸ Item 9, *supra* note 23, at 6; Item 8, *supra* note 24, at 1.

³⁹ Item 5 (Personal Subject Interview), *supra* note 10, at 2.

⁴⁰ Item 5 (Personal Subject Interview), *supra* note 10, at 2.

⁴¹ Item 5 (Personal Subject Interview), *supra* note 10, at 2.

⁴² Item 5 (Applicant’s Answers to Interrogatories), *supra* note 2, at 10: .

⁴³ *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

⁴⁴ Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

In the decision-making process, facts must be established by "substantial evidence."⁴⁵ The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government's case. The burden of disproving a mitigating condition never shifts to the Government.⁴⁶

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to 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. Furthermore, "security clearance determinations should err, if they must, on the side of denials."⁴⁷

Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."⁴⁸ Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

⁴⁵ "Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "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).

⁴⁶ See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

⁴⁷ *Egan*, 484 U.S. at 531

⁴⁸ See Exec. Or. 10865 § 7.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

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

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an "inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly, under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns. Applicant has had a long-standing problem with his finances which started as early as 2008. It is unclear if he found himself with insufficient funds to continue making his routine monthly payments or if he simply chose to stop doing so, and various accounts became delinquent, and were placed for collection or charged off. AG ¶¶ 19(a) and 19(c) apply.

The guideline also includes examples of conditions that could mitigate security concerns arising from financial difficulties. Under AG ¶ 20(a), the disqualifying condition may be mitigated where "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." Also, under AG ¶ 20(b), financial security concerns may be mitigated where "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." Evidence that "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control" is potentially mitigating under AG ¶ 20(c). Similarly, AG ¶ 20(d) applies where the evidence shows "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts."⁴⁹ In addition, AG ¶ 20(e) may apply if "the individual has a reasonable

⁴⁹ The 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 [or statute of limitations]) in order to claim the benefit of [the "good-faith" mitigating condition].

basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.”

AG ¶¶ 20(a), 20(b), 20(c), 20(d), and 20(e) do not apply. The nature, frequency, and recency of Applicant’s continuing financial difficulties since about 2008 make it difficult to conclude that it occurred “so long ago” or “was so infrequent.” Applicant was previously unemployed from July 2006 until October 2006, but that relatively brief period was well before his financial problems arose. Applicant offered no evidence of a good-faith effort to resolve any of his debts and essentially ignored them until relatively recently. He failed to submit any documentation such as receipts, cancelled checks, account records, etc., to support his contentions that one of his delinquent accounts was resolved. Likewise, there is the absence of documentation regarding possible debt consolidation, disputes, or any continuing contacts with his creditors. There is no evidence to indicate that Applicant ever received financial counseling. It appears that he has funds remaining at the end of each month for discretionary use or savings, but there is no evidence that he has taken any steps to resolve his delinquent accounts with that money. There is no evidence to reflect that Applicant’s financial problems are under control. Applicant has not acted responsibly by failing to address his delinquent accounts and by making little, if any, efforts of working with his creditors.⁵⁰ Applicant’s actions under the circumstances cast doubt on his current reliability, trustworthiness, and good judgment.⁵¹

Guideline E, Personal Conduct

The security concern relating to the guideline for Personal Conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

(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)).

⁵⁰ “Even 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.

⁵¹ See ISCR Case No. 09-08533 at 3-4 (App. Bd. Oct. 6, 2010).

The guideline notes a condition that could raise security concerns. Under AG ¶ 16(a), it is potentially disqualifying if there is 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.

As noted above, on December 20, 2011, when Applicant completed his e-QIP, he responded to certain questions pertaining to his financial record. The questions in Section 26 – Financial Record asked if, in the past seven years, he had bills or debts turned over to a collection agency; if he had any account or credit card suspended, charged off, or cancelled for failing to pay as agreed; if he was currently over 120 days delinquent on any debt (include financial obligations for which you are the sole debtor, as well as those for which you are a co-signer or guarantor)? Applicant answered “no” to those questions. He certified that the responses were “true, complete, and correct” to the best of his knowledge and belief, but the responses to those questions were, in fact, false.

Applicant’s responses provide sufficient evidence to examine if his submissions were deliberate falsifications, as alleged in the SOR, or merely the result of misunderstanding the true facts on his part. Applicant subsequently denied intending to falsify his responses and explained that when he completed the e-QIP, he had no knowledge of his debts as he had not previously obtained a credit report, and that he was not sure why he answered those questions the way he did.

I have considered Applicant’s background, professional career, including his military service, and his seemingly superficial understanding of financial matters, in analyzing his actions. Applicant was previously charged with violations of Article 92, UCMJ, for the unauthorized use of his government credit card; Article 107, UCMJ, for making a false official statement with intent to deceive (related to the credit card balance); and Article 107, UCMJ, for making false official statements with intent to deceive (related to an additional \$1,000 charge). Rather than face a court-martial, Applicant submitted the paperwork for an administrative discharge in lieu of a court-martial, and he was discharged with the UOHC. Applicant’s history reflects a lack of candor and honesty. As it pertains to the alleged deliberate falsifications, Applicant’s superficial explanation is insufficient to refute AG ¶ 16(a).⁵²

⁵² The Appeal Board has explained the process for analyzing falsification cases, stating:

(a) when a falsification allegation is controverted, Department Counsel has the burden of proving falsification; (b) proof of an omission, standing alone, does not establish or prove an applicant’s intent or state of mind when the omission occurred; and (c) a Judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning the applicant’s intent or state of mind at the time the omission occurred.

ISCR Case No. 03-10390 at 8 (App. Bd. Apr. 12, 2005) (citing ISCR Case No. 02-23133 (App. Bd. Jun. 9, 2004)).

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. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis.⁵³

There is some evidence in favor of mitigating Applicant's conduct. He has been with his current employer since October 2014. He was previously briefly unemployed from July 2006 until October 2006. He has declared his intention of addressing his creditors and resolving his financial problems.

The disqualifying evidence under the whole-person concept is more substantial. Other than the historical record as to Applicant's character, and his lack of integrity, reliability, and judgment while in the U.S. Air Force, there is no evidence from third-parties as to his current reputation for reliability, trustworthiness, and good judgment. Rather than face a court-martial for misconduct, Applicant submitted the paperwork for an administrative discharge in lieu of a court-martial, and he was discharged with the UOTHC. His lack of candor, in addition to his long-standing failure to repay his creditors, even in the smallest amounts, or to arrange payment plans, reflect traits which raise concerns about his fitness to hold a security clearance. Despite his promises to resolve his delinquent accounts, Applicant has essentially taken no positive actions to do so. Applicant's actions under the circumstances cast doubt on his current reliability, trustworthiness, and good judgment. Considering the relative absence of confirmed debt resolution and elimination efforts, Applicant's financial issues are likely to remain.

⁵³ See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006).

The Appeal Board has addressed a key element in the whole-person analysis in financial cases stating:⁵⁴

In evaluating Guideline F cases, the Board has previously noted that the concept of ‘meaningful track record’ necessarily includes evidence of actual debt reduction through payment of debts.’ However, an applicant is not required, as a matter of law, to establish that he [or she] has paid off each and every debt listed in the SOR. All that is required is that an applicant demonstrate that he [or she] has ‘. . . established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan.’ The Judge can reasonably consider the entirety of an applicant’s financial situation and his [or her] actions in evaluating the extent to which that applicant’s plan for the reduction of his outstanding indebtedness is credible and realistic. See Directive ¶ E2.2(a) (‘Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination.’) There is no requirement that a plan provide for payments on all outstanding debts simultaneously. Rather, a reasonable plan (and concomitant conduct) may provide for the payment of such debts one at a time. Likewise, there is no requirement that the first debts actually paid in furtherance of a reasonable debt plan be the ones listed in the SOR.

Applicant has demonstrated an essentially negative track record of debt reduction and elimination efforts, generally ignoring his debts. Overall, the evidence leaves me with questions and doubts as to Applicant’s eligibility and suitability for a security clearance. For all of these reasons, I conclude Applicant has failed to mitigate the security concerns arising from his financial considerations and his personal conduct. See AG ¶ 2(a)(1) through AG ¶ 2(a)(9).

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
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

⁵⁴ ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) (internal citations omitted).

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

ROBERT ROBINSON GALES
Administrative Judge