



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



In the matter of:)	
)	
(Redacted))	ISCR Case No. 15-08255
)	
Applicant for Security Clearance)	

Appearances

For Government: Robert J. Kilmartin, Esq., Department Counsel
For Applicant: *Pro se*

05/18/2017

Decision

Applicant resigned from a fraternal organization in December 2009 after he had misappropriated funds for his personal use. He has begun repaying a \$7,426 charged-off credit card debt, but concerns persist about his financial judgment and his personal conduct. Applicant intentionally concealed his financial problems during his background investigation. Clearance is denied.

Statement of the Case

On July 8, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations, and Guideline E, personal conduct, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG) effective within the DOD on September 1, 2006.

On July 27, 2016, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On September 20, 2016, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On September 27, 2016, I scheduled a hearing for October 19, 2016.

I convened the hearing as scheduled. Five Government exhibits (GEs 1-5) were admitted. GE 3 was admitted over Applicant's expressed concerns about the accuracy of some of the information in the credit report. Twelve Applicant exhibits (AEs A-L) were admitted into evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on October 26, 2016.

Summary of SOR Allegations and Response

The SOR alleges under Guideline F that Applicant owed two charged-off debts of \$485 (SOR ¶ 1.a) and \$7,426 (SOR ¶ 1.b) as of July 8, 2016, and that he misappropriated funds during his tenure as master of a fraternal organization in December 2009 (SOR ¶ 1.c). Under Guideline E, Applicant is alleged to have deliberately falsified a February 2015 security clearance application (SOR ¶ 2.a) and to have misrepresented facts during a September 2015 interview (SOR ¶ 2.b) by not disclosing his delinquent debts.

Applicant provided a detailed response in which he admitted the allegations. Concerning the debt in SOR ¶ 1.a, he indicated that he had not known that automatic payments toward the debt had stopped, and that he thought all this time that the debt had been paid. He had since paid the debt. Applicant explained that he had just established a plan with his creditor to repay the debt in SOR ¶ 1.b after he made previous attempts to settle the debt but no one was willing to work with him. As for the alleged misappropriation of funds, Applicant explained that he had a painting bill for his home and was short of money; that he borrowed funds from a fraternal organization with the approval of the lodge's treasurer provided he repaid the debt the following week when his home-equity loan was closing. However, a trustee of the organization told him that he had to repay the funds "ASAP." He explained that when his home-equity loan became available, he met with several trustees and repaid the funds. Applicant also admitted the Guideline E allegations. However, he then indicated that he did not disclose the debt in SOR ¶ 1.a because he believed it had been paid. He admitted that he had not disclosed the debt in SOR ¶ 1.b because of embarrassment and frustration.

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 52-year-old high school graduate with some community college credits toward an associate degree. He began working for his defense contractor employer as a mail clerk in October 1988, although because he was laid off in approximately August 1991

and recalled in May 1992, he has a “bridged” hire date of May 1989. Applicant held a DOD secret clearance until June 2010, when his clearance was upgraded to top secret. Applicant has held his current position of transportation specialist since the fall of 2013. (GEs 1, 2.)

Applicant continued to live with his parents as a single adult. His maternal grandmother lived nearby. In December 1996, when Applicant was 32, his grandmother deeded her home to him, reserving for herself a life estate in the premises. (AE K.) After his grandmother’s death in September 2008, Applicant’s married sister, his only sibling, resided in the house. (AE H; Tr. 43, 50.)

In April 2005, Applicant’s father died. (Tr. 50-51.) Of the \$9,338 in funeral expenses for his father, Applicant paid \$3,878. (AE F; Tr. 52.) His mother paid the remainder. (Tr. 40.) In May 2005, Applicant’s mother deeded her home to him while reserving for herself a life estate in the premises. (AE L.) In 2006, Applicant’s mother had a recurrence of cancer initially diagnosed in 2000 or 2001. (AE G; Tr. 40, 51.) Applicant, who was a longtime member of a fraternal organization (AE I; Tr. 41), “borrowed” \$1,500 from the lodge with the intention of repaying the funds. He needed the funds to pay an oil bill while his mother was at home in hospice care. Applicant knew his request was improper, but the lodge’s then treasurer approved it with the expectation that it would be repaid. Applicant testified that the treasurer told him to repay the debt when he could. (Tr. 61-64.) Applicant asserts that he repaid approximately \$200, but that he “lost track of paying the money back.” (Tr. 40, 65.) He presented no evidence that the debt has been repaid.

In November 2007, Applicant’s mother died. Applicant’s sister contracted to pay their mother’s funeral costs totaling \$10,360. (AE G; Tr. 53.)

On December 3, 2009, Applicant was serving his third tenure as master of the lodge when he asked the organization’s treasurer if he could borrow \$2,400 from the fraternal organization. Applicant owed a contractor for painting his residence, and the painter was not willing to wait until Applicant obtained a home-equity loan that he expected in a week. The treasurer gave him the funds, but notified a lodge trustee about Applicant’s loan. Applicant understood that he had fiduciary duties to the lodge members (Tr. 58), but he was facing financial pressure from owning the homes that had belonged to his parents and grandmother, from collection efforts for his mother’s funeral expenses, and from the expenses of his upcoming wedding. (AE H; Tr. 42-43.)

On December 4, 2009, Applicant was contacted by the trustee lodge about the \$2,400 loan. He promised the trustee that he would repay \$2,400 in full the following week. Available credit information shows that Applicant obtained an \$81,995 home improvement loan in December 2009. (GE 3.) On December 7, 2009, Applicant had a meeting with the trustee and with three past masters of the lodge. Two of the past masters expressed concern that Applicant took liberties with his position in that he should have followed proper procedures and presented his loan request to the lodge members. (Tr. 60.) The lodge had a relief fund. Applicant was confronted about his previous loan of \$1,500 from the organization in 2007 to pay an oil bill, which he claims had been approved by the then

master of the lodge. Applicant expressed his belief that he had repaid the debt by check, but the organization had no records of the debt having been paid, and he could not substantiate repayment. Applicant resigned from the lodge on December 7, 2009. He claims he left under good terms and was just “burned out” as master. (GE 5; Tr. 67, 70.)

On May 11, 2010, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM) about allegations that he misappropriated funds of the fraternal organization. Applicant acknowledged that he had resigned from the organization on December 7, 2009, four days after he borrowed \$2,400 to pay his painter. Applicant asserted that he had repaid the \$2,400 by personal check during his meeting with the trustee and past masters on December 7, 2009. He also recalled that he told the trustee in January 2010 that he would discuss repayment of the \$1,500 from 2007 after his wedding. Applicant told the OPM investigator that he had repaid the \$1,500. He indicated that he resigned from the lodge because he was “burned out” but also because one of the former lodge masters was upset with him. (GE 5.)

In May 2010, Applicant married his spouse, who had been a good friend of his sister. (GE 1; Tr. 43.) He paid off the \$81,995 home-equity loan on his then residence through a new home-equity loan of \$110,000 in May 2010. (GE 3.) In July 2010, Applicant’s sister received a demand for payment of her mother’s funeral expenses. With late fees and attorney’s fees, the debt totaled \$11,880. In August 2010, Applicant obtained a new line of credit for \$25,000, using as equity the home that he acquired from his grandmother. (GE 3; Tr. 80.) On August 6, 2010, Applicant used some of his new line of credit to pay his mother’s burial costs from 2007. (AE H; Tr. 54)

Applicant’s sister apparently assumed that Applicant would continue to pay the property taxes and other expenses on their grandmother’s house since he owned the home. Her failure to contribute financially became an issue in Applicant’s marriage and ultimately led to Applicant being estranged from his sister since August 2013. (GE 2; Tr. 43-44.) Applicant asked his sister to leave the property. In June 2014, Applicant sold his residence (the house that he had acquired from his mother), paying off the home-equity loan on the property. (GE 1; Tr. 44-47.) He and his spouse moved into the home vacated by his sister. (GE 1.)

Applicant owed a charged-off balance of \$7,426 with his credit union (SOR ¶ 1.b) which was not resolved in the sale of his residence. (GE 3.) The credit union demanded payment in full, which Applicant could not afford. Applicant offered to pay half of the balance in a lump sum and then to make smaller payments. According to Applicant, “it just ceased to be an issue” in that the credit union continued to demand the full amount and would not work with him about accepting smaller payments. (Tr. 48-49.) Applicant did not set aside any funds to resolve the debt in the future. (Tr. 77.)

On February 11, 2015, Applicant completed and certified to the accuracy of a Questionnaire for National Security Positions (SF 86) to renew his security clearance eligibility. Applicant responded negatively to the financial record inquiries, including to whether, in the past seven years, he had any account or credit card suspended, charged

off, or cancelled for failing to pay as agreed. He also denied that he was currently over 120 days delinquent on any debt. (GE 1.) Applicant was ashamed to admit that he owed charged-off balances. (Tr. 50, 75.)

As of February 25, 2015, Applicant was making timely payments on an automobile loan obtained for \$33,227 in February 2009, but his loan had been 30 days past due 39 times, including for most of 2013 and 2014. A credit card account opened in February 1999 was \$407 past due on a balance of \$485 (SOR ¶ 1.a). The account was charged off in September 2012 after no activity since July 2011. His credit card with the credit union (SOR ¶ 1.b) had been charged off around May 2011 and was in collection for \$7,426. He struggled to make his payments when he had two home-equity loans and was 30 days late 29 times on his \$25,000 home-equity line of credit. He brought the loan current after he paid off his other home-equity loan in the summer of 2014. (GE 3.)

During a subject interview on September 9, 2015, an OPM investigator asked Applicant all of the financial questions on the SF 86. Applicant responded negatively to each question. He was then reminded that he was under oath and confronted with the adverse credit information on his credit record. He acknowledged the delinquent debts and admitted that he had intentionally falsified his SF 86 and lied regarding his financial difficulties because he was embarrassed. Applicant explained that he had fallen behind on the credit card account in SOR ¶ 1.a when the balance was \$600, but that he had entered into a repayment arrangement approximately three years ago and was repaying the debt at \$30 a month. Applicant indicated that he had used the credit card in SOR ¶ 1.b for general household purchases, holiday shopping, and his parents' funeral expenses. After the account was placed for collection, he attempted to make repayment arrangements, but the creditor wanted payment in full. He had no communication with the creditor about the debt in the past year, but the creditor had also not taken any legal action against him for the debt. Applicant expressed an intention to contact the creditor in the near future about a possible resolution. He admitted that he had been delinquent in the past on the \$110,000 and \$25,000 home-equity lines of credit, but the first loan was now closed and the other home-equity loan was current. Applicant expressed regret for his lack of candor about his financial issues. (GE 2.)

Applicant underwent voluntary counseling with a licensed independent certified social worker (LICSW) for several months in 2015 for assistance in dealing with "recent losses and personal stress that impacted his daily activities, such as managing his financial obligations." Applicant was extremely embarrassed by his lack of focus to his financial obligations. In the opinion of the LICSW, Applicant showed marked improvement in overcoming his issues. The LICSW was confident that Applicant's ability to manage his obligations would not be an issue in the future. (AE C.)

As of May 4, 2016, the creditors in SOR ¶¶ 1.a and 1.b were reporting no payments on the debts since September 2012 and May 2011, respectively. Applicant was repaying his \$25,000 home-equity loan at \$80 a month and had been current in his payments since July 2014. Applicant had paid off his \$33,227 car loan in August 2015. He had no new

credit accounts on his record. (GE 4.) In February 2016, his spouse obtained a car loan of \$24,000, to be repaid at \$403 per month for six years. (Tr. 81-83.)

In response to DOHA interrogatories, Applicant indicated on June 9, 2016, that he was progressing toward full satisfaction on the debt in SOR ¶ 1.a. Concerning his larger credit card delinquency in SOR ¶ 1.b, Applicant indicated that he was going to contact the credit union about resolving the debt with a written repayment agreement. About his failure to disclose his financial delinquencies, Applicant explained:

I failed to disclose my financial obligations because I felt a sense of embarrassment, but I realize that by not being truthful from the beginning I let my emotions deter myself from providing full disclosure. I feel a sense of remorse over the actions I have taken and apologize for those actions.

(GE 2.) Applicant made two payments of \$242 by check on June 16, 2016, and June 29, 2016, to fully satisfy the debt in SOR ¶ 1.a. (AE A.) As of July 27, 2016, Applicant had an agreement in place with his credit union to repay the charged-off credit card debt in SOR ¶ 1.b. As of October 18, 2016, Applicant had made four payments at \$50 a month toward the debt. (Tr. 66.) The credit union is expecting him to start \$100 payments. (AE B; Tr. 79.) The lender confirms that Applicant has been working diligently to reduce the charged-off credit card debt. Applicant is considered a valued member of the credit union. (AE B.)

In response to the SOR allegations, Applicant indicated on July 26, 2016, that he had been making regular payments from his checking account toward the debt in SOR ¶ 1.a and was not aware when he completed his SF 86 that payments had stopped from his checking account. He asserted that “all this time [he] thought the account was paid in full.” About the debt in SOR ¶ 1.b, he claimed he “made previous attempts to settle the debt but no one from the bank was willing to work with [him] until now.” About his misappropriation of lodge funds, Applicant indicated that “[he] felt slightly intimidated by [his painter’s] demeanor and was at a loss with how to proceed.” He claimed he had every intention of repaying the lodge and that the treasurer approved his loan (“I made it clear that [the treasurer] had approved my request of borrowing the money.”). (Answer.)

Applicant’s annual salary from his defense contractor employment is approximately \$47,000. It was approximately \$40,000 in 2007 when he improperly borrowed \$1,500 from the lodge to pay an oil bill. His spouse’s employment income is about \$34,000 annually. He testified that their monthly household discretionary income is \$1,000 after paying the bills. Applicant’s spouse handles their finances. To Applicant’s knowledge, they have about \$300 in their joint checking account. (Tr. 76-79.) He and his spouse used their \$2,500 income tax refund for tax year 2015 to pay some bills, including her credit card debt, and they deposited the remainder in a money market account that has a balance of \$2,000. (Tr. 84.)

Character References

Applicant's work duties include receiving and distributing shipments, preparing customs forms, and performing courier duties as needed. (AE J.) Applicant's supervisor considers Applicant to be an asset to their organization. Likewise, a longtime co-worker, who serves as the classified material custodian, attested to Applicant being very diligent in the handling of classified shipments. Applicant has consistently demonstrated trustworthiness in every aspect of his duties. He has no hesitation about recommending Applicant for continued security clearance eligibility as he has found Applicant's character and personal integrity to be "entirely unimpeachable." Another co-worker, who has worked in the classified material control center for 30 years and is familiar with Applicant's work for 25 years, has never had a reason to question Applicant's honesty and trustworthiness in fulfilling his job responsibilities. He too has no concerns about Applicant retaining his security clearance. (AE D.) None of Applicant's co-workers mention knowing about the issues in the SOR.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to be considered in evaluating an applicant's eligibility for access to classified information. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship

transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concerns about financial considerations are set forth 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 evidence establishes that Applicant stopped paying on two credit card accounts in 2011. Balances of \$485 (SOR ¶ 1.a) and \$7,426 (SOR ¶ 1.b) were charged off and referred for collection. Disqualifying conditions AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations,” apply. Additionally, Applicant twice misappropriated the funds of a fraternal organization in that he improperly “borrowed” \$1,500 in 2007 and \$2,400 in December 2009 for personal purposes. When confronted in December 2009 by a lodge trustee and some previous lodge masters about violating his fiduciary obligation to the lodge by acquiring funds for personal use outside normal channels, Applicant promised to repay the \$2,400 in a week. He presented no corroboration for his claim that the debt has been repaid. Assuming he repaid the \$2,400 with some of his home-equity loan, he acknowledged in October 2016 that he had paid only about \$200 toward the \$1,500 taken in 2007. AG ¶¶ 19(a) and 19(c) apply to the lodge’s funds that have not been repaid. Applicant may not have set out to permanently deprive the lodge of its funds, but his financial breach of trust raises security concerns as contemplated within AG ¶ 19(d), which provides:

(d) deceptive or illegal financial practices such as embezzlement, employee theft, check fraud, income tax evasion, expenses account fraud, filing deceptive loan statements, and other intentional financial breaches of trust.

Mitigating condition 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,” applies

in that the misappropriation of the lodge's funds and credit card defaults are not recent. Yet, even assuming that Applicant repaid the \$2,400 to the lodge in December 2009, AG ¶ 20(a) does not fully mitigate the financial concerns in light of Applicant's failure to take timely steps to address the credit card delinquencies and the funds improperly obtained from the lodge in 2007. While he indicated during his September 2015 subject interview that he was repaying the credit card debt at \$30 a month and that he planned to continue to make payments on the debt, available credit reports show no payments on the debt from October 2012 through May 2016. He claimed in his response to the SOR that he did not know automatic payments had ceased on the debt in SOR ¶ 1.a. Either Applicant was not paying the debt or he failed to pay attention. Either way, his irresponsibility is not mitigated under AG ¶ 20(b).

Applicant attributes his financial problems to the costs of owning two properties, burial expenses for his parents, and wedding costs. Applicant was deeded his grandmother's home in December 1996 and his mother's home in May 2005, although there is no evidence that Applicant was burdened with all the costs of homeownership before the deaths of his mother in November 2007 and grandmother in September 2008. He had unexpected burial costs for his mother because of his sister's refusal to fulfill her contractual responsibility, so AG ¶ 20(b) has some applicability. It provides:

(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.

However, Applicant did not act responsibly under AG ¶ 20(b) when he overextended himself on credit (SOR ¶ 1.b). He also exercised poor financial judgment when he misappropriated funds belonging to a fraternal organization to pay for painting at his residence. Applicant did not provide a reasonable explanation for why he could not have waited for disbursement of the home-equity loan to arrange for the painting of his home. Furthermore, he was not proactive in addressing the financial issues of security concern apart from possibly repaying the \$2,400 debt to the lodge in December 2009. He knew as of his subject interview in May 2010 that his misappropriation of funds was of concern to the DOD. He claimed that the \$1,500 debt from 2007 had been repaid. He now admits that he likely did not fully repay the debt. He showed similar disregard of the \$7,426 credit card debt. The credit union demanded full payment after he sold his home in approximately June 2014. Applicant ignored the debt until June 2016, when, in response to DOHA interrogatories, he indicated that he would be in touch with his credit union to resolve the debt. Despite being confronted about the debt during his September 2015 interview, he set aside no money toward resolving it.

Applicant had counseling with a LICSW in 2015, partially to address his lack of focus on his financial matters, and the LICSW is confident about Applicant's ability to manage his obligations in the future. Applicant satisfies the counseling component of AG ¶ 20(c), "the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is resolved or is under control." His financial situation

appears to have stabilized. Applicant's latest available credit report from May 2016 shows a history of timely payments on his home-equity and car loans since the fall of 2014, when, with the sale of the house acquired from his mother, he no longer had the expenses of two properties and two home-equity loans. He claims to have about \$1,000 in monthly discretionary income, and he has no new credit accounts.

AG ¶ 20(d), "the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts," has limited applicability. Applicant claimed in September 2015 that he was making \$30 monthly payments on the debt in SOR ¶ 1.a, but credit reports show no payments from October 2012 through May 2016. Applicant is credited with making two payments in June 2016 to fully satisfy the credit card delinquency in SOR ¶ 1.a, although the timing of those payments would suggest that the DOHA interrogatories was a primary motivator in satisfying that debt and working with the credit union to address his larger credit card delinquency.

As of his hearing in October 2016, Applicant had made four \$50 payments toward the \$7,426 credit card debt. The Appeal Board has held that an applicant is not required to establish that he has paid off each debt in the SOR, or even that the first debts paid be those in the SOR.¹ However, an applicant needs to show that he has a plan to resolve his debts and that he has taken significant steps to implement his plan. Given Applicant's history of late payments on his home-equity loans, his years of inattention to his credit card delinquencies, the recency of his repayment plan for the credit card delinquency in SOR ¶ 1.b, and no proof that he repaid the funds misappropriated from the fraternal organization, a longer track record of financial responsibility is required to fully mitigate the concerns about Applicant's financial judgment.

¹ The DOHA Appeal Board stated in ISCR Case No. 07-06482, decided on May 21, 2008, in part:

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." See, e.g., ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007). However, an applicant is not required, as a matter of law, to establish that he has paid off each and every debt listed in the SOR. See, e.g., ISCR Case No. 02-25499 at 2 (App. Bd. Jun. 5, 2006). All that is required is that an applicant demonstrate[s] that he has "... established a plan to resolve his financial problems and taken significant actions to implement that plan." See, e.g., ISCR Case No. 04-09684 at 2 (App. Bd. Jul. 6, 2006). The Judge can reasonably consider the entirety of an applicant's financial situation and his 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. See, e.g., ISCR Case No. 06-25584 at 4 (App. Bd. Apr. 4, 2008). 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.

Guideline E, Personal Conduct

The security concern about personal conduct is articulated 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.

The SOR alleges, and the evidence establishes, that Applicant failed to comply with his obligation of full disclosure by falsely denying any financial delinquencies when he completed his February 2015 SF 86 and when he was first questioned about any delinquent debts during his September 2015 interview with an OPM investigator. Two disqualifying conditions under AG ¶ 16 apply because of his deliberate concealment of relevant and material financial delinquencies during the application and investigation for his continued security eligibility. These conditions are as follows:

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

None of the mitigating conditions under AG ¶ 17 fully applies. Applicant's belated admissions about his delinquent debts came after the OPM interviewer confronted him with the adverse credit information on his record. He did not make the good-faith voluntary rectification needed to establish AG ¶ 17(a), "the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts."

Moreover, Applicant's deliberate falsifications cannot reasonably be characterized as minor or so far in the past to qualify for mitigation under AG ¶ 17(c), which provides:

- (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.

Applicant certified to the accuracy of his SF 86 statements after being informed in writing that a knowing and willful false statement could be punished by a fine or imprisonment or both under Title 18, Section 1001 of the United States Code. His false certification

constituted criminal conduct that raises serious concerns about his judgment and trustworthiness.

Applicant shows some reform under AG ¶ 20(d) by acknowledging his lack of candor and expressing remorse. AG ¶ 20(d) provides:

(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.

Yet, Applicant's reform is incomplete to the extent that he minimizes or excuses his behavior by claiming that he had thought "all this time" that his debt in SOR ¶ 1.a had been paid and by asserting that "stressors, circumstances, and other factors" caused him to answer the SF 86 and interview inquiries as he did. I have considered the favorable assessment of the LICSW, but I continue to have concerns about Applicant's judgment, reliability, and trustworthiness.

Whole-Person Concept

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).² The analyses under Guideline F and Guideline E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

The security clearance adjudication is not aimed at collecting an applicant's personal debts. Rather, it involves an evaluation of an applicant's judgment, reliability, and trustworthiness in light of the security guidelines in the Directive. See ISCR Case No. 09-02160 (App. Bd. Jun. 21, 2010). Applicant raised considerable doubts about his financial judgment by improperly obtaining funds from a fraternal organization in 2007 and again in 2009 to pay for personal expenses. He claims that the lodge treasurer in 2009 had no issues with him borrowing the money, but the evidence suggests otherwise because the treasurer notified a lodge trustee. Applicant is a longtime security clearance holder with no record of any security violations or infractions. However, when faced with financial stress, he put his personal interest ahead of his fiduciary obligation to lodge members. More recently, he raised considerable doubts about whether the government can reasonably rely on his representations when he lied on his SF 86 and to an OPM investigator. His

² The factors under AG ¶ 2(a) are as follows:

(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.

falsifications in a security context raise a serious security concern. The protection of national security relies on applicants to self-report conduct that jeopardizes security, even when that disclosure might damage the applicant's career. Applicant has shown that he cannot be trusted to disclose potentially derogatory information. It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against the grant or renewal of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990). For the reasons noted above, I am unable to find that it is clearly consistent with the national interest to grant or continue Applicant's security clearance eligibility.

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

Conclusion

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

Elizabeth M. Matchinski
Administrative Judge